Agenda

Regular Meeting of the Governing Body
February 26, 2025 at 5:00 PM
City Council Chambers, City Hall
200 Lincoln Avenue

Procedures for Governing Body Meeting

Viewing: Members of the public may view the meeting through the Government Channel on Comcast Channel 28 and Comcast HD928 or may stream the meeting live on the City of Santa Fe's YouTube channel. The YouTube live stream can be accessed from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the Governing Body will also remain available for viewing at any time on the City's YouTube channel. Staff is available to help members of the public access pre-recorded Governing Body meetings online at any time during normal business hours. Please call 955-6521 for assistance.

Radio Broadcast: The meeting can be heard on radio station KSFR 101.1.

Written Public Comment: Members of the public may submit written comments on legislation by clicking this link: https://santafenm.gov/city-clerk-community-engagement/city-clerk-1/governing-body-public-comment

Live Public Comment: Members of the public may provide public comment in person during Petitions from the Floor, Public Comment, Final Action on Legislation, or Public Hearings.

Virtual Public Comment: To provide public comment during Petitions from the Floor, Public Comment, Final Action on Legislation, or Public Hearings virtually, you must join the Zoom meeting by internet or phone, using the following link: https://santafenm-gov.zoom.us/j/83381359024

- Internet: Join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet. Attendees should use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.
- Phone: To join the Zoom meeting using a phone, use the following phone numbers and Webinar ID: US: 1 (346) 248-7799 - Webinar ID: **833 8135 9024**. Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.

1. Call to Order
2. Pledge of Allegiance
    a. Councilor Romero-Wirth
3. Salute to the New Mexico Flag
    a. Councilor Lee Garcia
4. Invocation and Rememberances
    a. Councilor Chavez
5. Roll Call
6. Approval of Agenda
7. Approval of Consent Agenda
8. Presentations
    a. Annual Code of Ethics Review. (Marcos Martinez, Senior Assistant City Attorney:mdmartinez@santafenm.gov)
9. Action Items: Consent Agenda
    a. Request for Approval of the February 12, 2025 Regular Governing Body Meeting Minutes. (Geralyn Cardenas, Assistant City Clerk; gfcardenas@santafenm.gov)

        Committee Review:
        Governing Body: 02/6/2025

    b. Request for Approval of a General Services Contract with Accent Landscape Contractors, Inc. in the Total Amount of $637,807.74 for the Railyard Park Irrigation and Water Harvesting System Replacement and Repairs with Term Ending June 30, 2026. (Joshua Bohlman, Public Works Project Manager, jbohlman@santafenm.gov)

        1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $750,000 from the Railyard Fund Balance Into Railyard Operations WIP Construction for the Railyard Irrigation and Water Harvesting Improvements.

        Committee Review:
        Public Works and Utilities Committee: 02/17/2025
        Finance Committee: 02/24/2025
        Governing Body: 02/26/2025

c. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $775,000 from General Fund Balances to the Fire Department to Purchase Ambulance Gurneys, Stair Chairs, Fire Hose and Nozzles, and Equipment to Support Starlink High Speed Broadband Internet. (Brian Moya, Fire Chief; bjmoya@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

d. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $1,100,000 from Fire Impact Fees Fund, $500,000 from Gross Receipts Tax Fund and $150,000 from 1/2% Capital GRT Fund for a Total Amount of $1,750,000 to Construct Equipment Storage and Training Facilities at Fire Station 5. (Brian J. Moya, Fire Chief; bjmoya@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

e. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $491,110 from General Fund Balances for Installation of a Wildfire Identification Thermal Camera, Continuity of Operations and Distribution Management Planning and the Purchase of Mobile Anti-Vehicle Ramming Barriers. (Brian Williams, Director Office of Emergency Mangement; bgwilliams@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

f. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $100,000 from General Fund Balances for the Installation of Security Camera's at the Fort Marcy Complex. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

g. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $140,000 from ½% Capital GRT Fund Balances for the Repair and/or

Replacement of the Cooling Tower at the Genoveva Chavez Community Center. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

h. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $70,000 from ½% Capital GRT Fund Balances for the Therapy Pool Deck Drain Repair and/or Replacement at the Genoveva Chavez Community Center. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

i. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $70,000 from ½% Capital GRT Fund Balances for the Maintenance and Refinishing of the Genoveva Chavez Community Center Gymnasium Floor. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

j. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $70,000 from General Fund Balances for the Genoveva Chavez Community Center Aquatic Facilities Assessment for Deferred Maintenance. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

k. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $200,000 from General Fund Balances to Increase Support for Youth After School and Summer Programs. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

l. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $100,000 from General Fund Balances to Fund Temporary Positions and Overtime for the Office of Records Custodians within the City Attorney's Office. (Erin K. McSherry, City Attorney; elkmcscherry@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

m. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $400,000 from General Fund Balances to Fund a Contract for Oversight and Project Management for Capital Outlay Funding Deployment. (Emily K. Oster, Finance Director; ekoster@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

n. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $300,000 from General Fund Balances for the Removal of the Siler Road Yards Fuel Station. (David Jaramillo, Fleet Section Manager; dmjaramillo@santafenm.gov and Sam Burnett, Facilities Division Director; jsburnett@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

o. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $150,000 from General Fund Balances to Fund Legal Services Review of the City of Santa Fe's Administrative Policies, Personnel Rules, Regulations and Policies. (Bernadette Salazar, Human Resources Director;

bjsalazar@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

p. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $135,000 from General Fund Balances for Midtown Redevelopment Project Management and Administrative Managment. (Daniel Hernandez, Metropolitan Redevelopment Agency Director; dahernandez@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

q. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $290,000 from General Fund Balances for the Construction of a City Backlot Set. (Jennifer LaBar-Tapia, Santa Fe Regional Film Office Director; jllabartapia@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

r. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $1,646,000 from General Fund Balances to Support Staff Capacity, Small Business Crime Mitigation and Security Grants, Small Business Development, Workforce Development and Office Rent for Community Services and Economic Development. (Johanna Nelson, Economic Development Director and Interim Housing Director; jcelson@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

s. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $837,000 from General Fund Balances for the Purchase of Automated Traffic Enforcement Equipment and Evidence Equipment. (Ben Valdez, Deputy Chief of Police; bpvaldez@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025

Finance Committee: 02/24/2025
Governing Body: 02/26/2025

t. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $1,500,000 from Gross Receipts Tax Fund Balances for the Replacement of Stucco on the Genoveva Chavez Community Center Facility. (Sam Burnett, Facilities Division Director; jsburnett@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

u. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $550,000 from ½% Capital GRT Fund Balances for the Purchase of a Replacement Vactor Truck. (Jennifer Morrow, Complete Streets Division Director; jlmorrow@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

v. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $400,000 from ½% Capital GRT Fund Balances for ADA Sidewalk and Parking Lot Repairs at the Southside and LaFarge Libraries. (Sam Burnett, Facilities Division Director; jsburnett@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

w. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $200,000 from ½% Capital GRT Fund Balances for Infrastructure to Repair the Bell Tower Elevators between City Hall and the Santa Fe Community Convention Center. (Sam Burnett, Facilities Division Director; jsburnett@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

x. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $1,010,000 from ½% Capital GRT Fund Balances to Fund West Alameda

Culvert Improvements and Parks and Open Space Equipment Replacement. (Regina A. Wheeler, Public Works Director; rawheeler@santafenm.gov and Melissa McDonald, Parks and Open Space Division Director; mamcdonald@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

y. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $270,000 from the Gross Receipts Tax Fund Balances to Fund Service Contracts to Enhance Weed Control and Median Maintenance. (Melissa McDonald, Parks and Open Space Division Director; mamcdonald@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

z. Request for Approval of New Mexico Department of Transportation Grant Agreement C5243318 in theTotal Amount of $4,500,000 for Project 24-I3318 the New Mexico Highway 599 Access Road to the Santa Fe Regional Airport. (James Harris, Airport Director; jcharris@santafenm.gov)

1. Request For Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $4,500,000 from the Legislative Grant to FY25 Airport Revenue and WIP Design and WIP Construction for Capital Project 24-I3318 599 Access Road to the Airport.

Committee Review:
Public Works and Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

aa. Request for Approval of a Construction Contract with B&D Industries, Inc. in the Total Amount of $10,818,750 Including NMGRT for On-Call Mechanical and Plumbing Services through December 31, 2029. (Caryn Grosse, Public Works Project Manager III; clgrosse@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

bb. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $1,000,000 from General Fund Balances to Fund the Upgrade of the Non-Public Safety Radio (NPSR) System. (Eric Candelaria, ITT Director; edcandeleria@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

cc. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $120,000 from Gross Receipts Tax Fund Balances to Fund the Contractually Required Fiscal Agent Fees. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

dd. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $320,000 from Gross Receipts Tax Fund Balances and $680,000 from the 1/2% Capital GRT Fund for a Total Amount of $1,000,000 to Support the Construction to Repair Ponds at the Marty Sanchez Golf Course for Compliance with a Corrective Action Plan. (Scott Overlie, Parks and Open Space Project Manager; saoverlie@santafenm.gov and Sam Ulibarri, Parks and Open Space Water Resources Superintendent; ssulibarri@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

ee. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $150,000 from ½% Capital GRT Fund Balances for Aquatic Mechanical Systems, Motors and Impeller Remodel and Replacement. (Maria Sanchez-Tucker, Community Services Director; metucker@santafenm.gov and Henri Hammond-Paul, Community Health and Safety Director; hmhammondpaul@santafenm.gov)

Committee Review:
Public Works & Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

ff. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $100,000 from General Fund Balances to Fund Contracts for Experts to Evaluate Options for the Soldiers' Monument. (Mark A. Scott, City Manager; mscott@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

gg. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $1,078,000 from General Fund Balances and $174,850 from Lodgers' Tax Fund for a Total Amount of $1,252,850 to Fund Various Equipment, Software, General Plan Code Update, and Development Projects within Planning and Land Use Department. (Heather Lamboy, Planning and Land Use Director; hllamboy@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

hh. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $3,088,000 from General Fund Balances, $350,000 from 1/2% Capital GRT Fund for a Total Amount of $3,438,000 to Support and Expand Existing Human Services Under CONNECT, Homeless Solutions, Guaranteed Income and Immigration Support. (Julie Sanchez, Youth and Family Services Division Director; jjsanchez@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

ii. Request for Approval to Purchase Two Rear-Loading Trucks in the Total Amount of $805,068 from Bond Equipment Company. (Lawrence Garcia, ESD Fleet Manager; lmgarcia@samtafem.gov)

Committee Review:
Public Works and Utilities Committed: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

jj. Request Approval of a Budget Amendment Resolution (BAR) in the Amount of $150,000 to Fund Temporary Positions within the Public Utilities Department Administrative Division. (Nancy Jimenez, Utility Billing Division Director;

nljimenez@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

kk. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $300,000 from General Fund Balances to Fund the Implementation of the Storage of Video Footage on City Servers. (Eric Candelaria, ITT Director; edcandelaria@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/19/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

ll. Request for Approval of a Construction Contract with Pluma, LLC for On-Call General Electrical Services in the Total Amount of $649,125 Including NMGRT for a Four-Year Term. (Paul F. Heerbrant, PE Engineer Supervisor; pfheerbrandt@santafenm.gov)

1. Request for Approval of Budget Amendment Resolution (BAR) in the Total Amount of $649,125 from the Wastewater Enterprise Fund to Wastewater Capital Projects to Fund the Contract.

Committee Review:
Public Works and Utilities Committee: 02/17/25
Finance Committee: 02/24/25
Governing Body: 02/26/25

mm. Request for Approval of a Construction Contract with Great Western Electrical for On-Call General Electrical Services in the Total Amount of $649,125 Including NMGRT for a Four-Year Term. (Paul F. Heerbrandt, PE Engineer Supervisor; pfheerbrandt@santafenm.gov)

1. Request for Approval of Budget Amendment Resolution (BAR) in the Total Amount of $649,125 from the Wastewater Enterprise Fund to Wastewater Capital Projects to Fund the Contract.

Committee Review:
Public Works and Utilities Committee: 02/17/25
Finance Committee: 02/24/25
Governing Body: 02/26/25

nn. Request Approval of Budget Amendment Resolution (BAR) in the Total

Amount of $120,000 to Pay Wells Fargo Bank Credit Card Fees. (Clarence Romero, Treasury Officer; clromero@santafenm.gov)

Committee Review:
Public Works and utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

oo. Request Approval of Amendment No. 3 to Item #21-0483 with AAC Construction to Correct Compensation Language in Amendment No. 2 Item No. 24-0653. (Bill Huey, Engineer; bchuey@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/17/2025
Finance committee: 02/24/2025
Governing Body: 02/26/2025

pp. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $92,737 using $69,553 of Grant Funding and $23,184 of Road Impact Fees for the Complete Streets WIP Design for the Santa Fe Rail Trail Intersection Improvement Project. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager, rsglorioso-moss@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

qq. CONSIDERATION OF RESOLUTION NO. 2025____. (Councilor Lee Garcia)
A Resolution Authorizing the Filing of Applications to the Federal Transit Administration, an Operating Administration of the United States Department of Transportation, for Federal Transportation Assistance as Authorized by 49 U.S.C. 53, Title 23, United States Code, or other Federal States Administered by the Federal Transit Administration. (Gabrielle Chavez, Transit Director of Administration; gnchavez@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

rr. CONSIDERATION OF RESOLUTION NO. 2025____.(Councilor Amanda Chavez and Councilor Jamie Cassutt)
A Resolution Authorizing Representatives and Agents for an Agreement with the New Mexico Department of Finance and Administration Regarding Appropriation ID Number G3169, New Mexico Department of Transportation

Control Number C5223169, to Acquire Easements and Rights of Way for and to Plan, Design, Construct, and Repair Governor Miles Road from Richards Avenue to Nizhoni Drive. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager; rsglorioso-moss@santafenm.gov)

Committee Review:
Governing Body: 02/12/2025
Public Works Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

ss. CONSIDERATION OF RESOLUTION NO. 2025____.(Councilor Amanda Chavez)
A Resolution Authorizing Representatives and Agents for an Agreement with New Mexico Department of Finance and Administration, Regarding Appropriation Number G3170, New Mexico Department of Transportation Control Number C5223170, to Acquire Easements and Rights of Way for and to Plan, Design, Construct, and Improve Pacheco Street, Including Pedestrian and Bicycle Improvements Between West San Mateo Road and Alta Vista Street. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager; rsglorioso-moss@santafenm.gov)

Committee Review:
Governing Body: 02/12/2025
Public WorksCommittee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

tt. CONSIDERATION OF RESOLUTION NO. 2025____. (Councilor Jamie Cassutt and Councilor Alma Castro)
A Resolution Authorizing the Sale and Consumption of Beer During the 2025 Santa Fe Century on May 17th and 18th, 2025, Pursuant to Section 23-6.2(C) SFCC 1987. (Andréa Salazar, City Clerk; asalazar@santafenm.gov)

Committee Review:
Governing Body: 02/12/2025
Quality of Life Committee: 02/19/2025
Governing Body: 02/26/2025

uu. Request for Approval of Written Findings of Fact and Conclusions of Law Reflecting the Decision by the Governing Body to Partially Deny and Partially Grant Appeal # 2024-8309-APPL of the Historic District Review Board's Status Review of Property at 718 Old Santa Fe Trail in Case # 2024-7892-HDRB, by Assigning Significant Status to Apartments and Non-Contributing Status to Two Casitas on the Property. (Frank Ruybalid, Assistant City Attorney; feruybalid@santafenm.gov)

Committee Review:
Governing Body: 02/26/2025

10. Action Items: Discussion Agenda

11. Matters from the City Manager

12. Matters from the City Attorney

    a. **EXECUTIVE SESSION**
    In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Subparts (H)(7) and (8), Attorney-Client Privileged Discussion of Pending and Threatened Litigation, in Particular, Threatened Litigation by the Estate of Stephanie "Gracen" Coon and Lili Gordon; and Litigation Challenging Trump Administration Limitations and Requirements on Federal Grants Imposed without Congressional Authority and/or that are Unrelated to the Purposes of the Grant and/or Orders that Violate the Tenth Amendment, Including *County and City of San Francisco vs. Trump*, 3:25-CV-01350; and Discussion of Potential Disposition of City Properties, in Particular, a 0.25 Acre Parcel at 1522 West Alameda and a 1.85 Acre Parcel Identified as APN 99308146, Further West on West Alameda; and 1616 Paseo de Peralta. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov).

13. Executive Session Action Items

    a. Approval to Join Litigation Filed by Other Similarly Situated Municipalities and Government Agencies, and/or Amici Briefs Filed by Other Similarly Situated Municipalities and Government Agencies, Challenging the Trump Administration's (1) Imposition of Limitations and Requirements without Congressional Authority in Relation to the City's Access to Federal Funds; and/or (2) Imposition of Limitations and Requirements that are Unrelated to the Purposes of a Grant; and/or (3) Orders that Violate the Tenth Amendment or Other Constitutional Provisions that Protect the City of Santa Fe; Including, but Not Limited to, Joining the Case *County and City of San Francisco vs. Trump*, 3:25-CV-01350.

    b. Approval of Recommended Action in Relation to Threatened Litigation by the Estate of Stephanie "Gracen" Coon and Lili Gordon.

14. Matters from the City Clerk

15. Communications from the Governing Body

16. Introduction of Legislation

    a. CONSIDERATION OF RESOLUTION NO. 2025___. (Councilor Amanda Chavez)
    A Resolution Authorizing Representatives and Agents for an Agreement with New Mexico Department of Finance and Administration, Regarding

Appropriation ID Number H3360, New Mexico Department of Transportation Control Number C5233360, to Acquire Rights of Way for and to Plan, Design and Construct Bicycle and Pedestrian Improvements Along Pacheco Street Between West San Mateo Road and Alta Vista Street. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager; rsglorioso-moss@santafenm.gov)

Committee Review:
Governing Body: 02/26/2025
Public Works Committee: 03/03/2025
Finance Committee: 03/10/2025
Governing Body: 03/12/2025

b. CONSIDERATION OF RESOLUTION NO. 2025___. (Councilor Alma Castro)
A Resolution Authorizing the Sale and Consumption of Beer and Wine in the Railyard Park During the 2025 Railyard Movies in the Park on May 31, 2025; June 28, 2025; July 26, 2025; August 9, 2025; and August 23, 2025, Pursuant to Subsection 23-6.2(C) SFCC 1987. (Andréa Salazar, City Clerk; asalazar@santafenm.gov)

Committee Review:
Governing Body: 02/26/2025
Quality of Life Committee: 03/05/2025
Governing Body: 03/12/2025

c. CONSIDERATION OF RESOLUTION NO. 2025____. (Councilor Michael Garcia)
A Resolution Authorizing the Sale and Consumption of Beer and Hard Cider During the Party on the Pitch Soccer Tournament on May 31, 2025, Pursuant to Section 23-6.2(C) SFCC 1987. (Andréa Salazar, City Clerk; asalazar@santafenm.gov)

Committee Review:
Governing Body (Introduced): 02/26/2025
Quality of Life Committee: 03/05/2025
Governing Body: 03/12/2025

d. CONSIDERATION OF RESOLUTION NO. 2025____. (Mayor Alan Webber)
A Resolution Approving Budget Amendments for the Buckman Direct Diversion Board and Santa Fe Solid Waste Management Agency and Requesting that New Mexico Department of Finance and Administration Approve the City of Santa Fe's Second Quarter Budget Amendments for Fiscal Year 2025. (Andy Hopkins, Budget Officer; ajhopkins@santafenm.gov)

Committee Review:
Governing Body: 02/26/2025

Public Works and Utilities Committee: 03/03/2025
Quality of Life Committee: 03/05/2025
Finance Committee: 03/10/2025
Governing Body: 03/12/2025

e. CONSIDERATION OF RESOLUTION 2025___. (Councilor Amanda Chavez)
A Resolution Authorizing Representatives and Agents for an Agreement with the New Mexico Department of Finance and Administration, Regarding Appropriation ID Number H3359, New Mexico Department of Transportation Control Number C52333359, to Acquire Rights of Way and to Plan, Design, Construct, and Improve Governor Miles Road from Richards Avenue to Nizhoni Drive. (Regina Wheeler, Public Works Director; rawheeler@santafe.gov)

Committee Review:
Governing Body: 02/26/2025
Public Works and Utilities Committee: 03/03/2025
Finance Committee: 03/10/2025
Governing Body: 03/12/2025

f. CONSIDERATION OF BILL NO. 2025-4. ADOPTION OF ORDINANCE NO. 2025-____. (Councilor Carol Romero-Wirth, Councilor Michael Garcia, Councilor Amanda Chavez)
A Bill Amending Ordinance No. 2024-6 to Approve Three Individual Loan Agreements with the New Mexico Environment Department to be Paid with Revenues from Each System, Respectively: (1) a Wastewater Project Loan Agreement; (2) a Water Project Loan Agreement; and (3) a Solid Waste Collection Project Loan Agreement; Incorporating Defections and Covenants Relating to Wastewater, Water, and Waste-Water System Debt Obligations in Each Loan Agreement, Respectively, by Reference Herein; Ratifying Prior Action Consistent with the Provisions Hereof; and Repealing Prior Action Inconstant with the Provisions Hereof, but Only to the Extent of Such Inconsistency. (Emily Oster, Finance Director; ekoster@santafenm.gov)

Committee Review:
Governing Body (Introduced): 02/26/2025
Governing Body (Public Comment): 03/12/2025
Public Works and Utilities Committee: 03/17/2025
Finance Committee: 03/24/2025
Governing Body: 03/26/2025

g. CONSIDERATION OF Bill NO. 2025-9. ADOPTION OF ORDINANCE NO. 2025____. (Councilor Michael Garcia, Councilor Amanda Chavez, Councilor Alma Castro, and Councilor Pilar Faulkner)
A Bill Amending Section 11-14.5 of the Economic Development Fund Ordinance to Change the Sunset Date for Depositing Certain Land Sale Revenues in the Affordable Housing Trust Fund from December 31, 2025, to December 31, 2030. (Johanna Nelson, Director of Office of Economic Development and Interim Director of Office of Affordable Housing; jcnelson@santafenm.gov)

Committee Review
Governing Body (Introduced): 02/26/2025

Governing Body (Public Comment): 03/12/2025
Economic Development Advisory Committee: 04/02/2025
Quality of Life Committee: 04/23/2025
Finance Committee: 04/28/2025
Governing Body: 05/14/2025

h. CONSIDERATION OF BILL NO. 2025-7. ADOPTION OF ORDINANCE NO. 2025-____. (Mayor Alan Webber)
A Bill Regarding Annual Budgets Including Multi-Year Appropriations; Amending Section 11-2.1 to Conform with the City's Charter; Establish Multi-Year Appropriations for Capital Outlay, Grant-Funded Projects, and "Special Appropriations"; and, Effective December 31, 2025, Amending Section 11-2.4 to Sunset the Finance Director's Budget Amendment Authority to Carry Over Certain Unexpended Appropriations Into the Next Fiscal Year. (Alexis Lotero, Assistant Finance Director; aclotero@santafenm.gov)

Committee Review:
Governing Body (Introduced): 02/26/2025
Governing Body (Public Comment): 03/12/2025
Public Works and Utilities Committee: 03/17/2025
Finance Committee: 03/24/2025
Governing Body: (Public Hearing): 04/09/2025

17. Petitions from the Floor

18. Public Comment on Bills (First Public Comment, No Action)

19. Final Action on Legislation (Public Hearing)

a. CONSIDERATION OF BILL NO. 2024-18. ADOPTION OF ORDINANCE NO. 2025___. (Councilor Amanda Chavez, Councilor Pilar Faulkner, and Councilor Lee Garcia)
A Bill Relating to City Administration; Amending Section 2-8, SFCC 1987 to Change the Title From “Community Health and Safety Department” to “Health and Human Services Department”; Remove the Police Department and the Fire Department from that Section; and Create Two New Sections, 2-8.8 and 2-8.9, for the Police Department and Fire Department, Respectively. (Marci Eannarino, Legislation and Policy Innovation Manager; maeannarino@santafenm.gov)

Committee Review:
Governing Body (Introduced): 12/11/2024
~~Governing Body (Public Comment): 01/15/2025~~ (Rescheduled to 01/29/2025 due to noticing requirements)
Governing Body (Public Comment): 01/29/2025)
~~Quality of Life Committee: 01/22/2025~~ (Rescheduled to 02/05/2025 due to noticing requirements)
Quality of Life Committee: 02/05/2025
~~Governing Body: 02/12/2025~~ (Rescheduled to 02/26/2025 due to noticing

requirements)
Governing Body: 02/26/2025

20. Public Hearings (Land Use Cases, Appeals and Other Items Required to Have a Public Hearing)

21. Appointments

22. Adjourn

Closed captions are provided for this meeting. Persons with disabilities in need of additional accommodations, contact the City Clerk’s office at 505-955-6521, five (5) working days prior to meeting date.

Agenda

Regular Meeting of the Governing Body
February 12, 2025 at 5:00 PM
City Council Chambers, City Hall
200 Lincoln Avenue

Procedures for Governing Body Meeting

Viewing: Members of the public may view the meeting through the Government Channel on Comcast Channel 28 and Comcast HD928 or may stream the meeting live on the City of Santa Fe's YouTube channel. The YouTube live stream can be accessed from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the Governing Body will also remain available for viewing at any time on the City's YouTube channel. Staff is available to help members of the public access pre-recorded Governing Body meetings online at any time during normal business hours. Please call 955-6521 for assistance.

Radio Broadcast: The meeting can be heard on radio station KSFR 101.1.

Written Public Comment: Members of the public may submit written comments on legislation by clicking this link: https://santafenm.gov/city-clerk-community-engagement/city-clerk-1/governing-body-public-comment

Live Public Comment: Members of the public may provide public comment in person during Petitions from the Floor, Public Comment, Final Action on Legislation, or Public Hearings.

Virtual Public Comment: To provide public comment during Petitions from the Floor, Public Comment, Final Action on Legislation, or Public Hearings virtually, you must join the Zoom meeting by internet or phone, using the following link: https://santafenm-gov.zoom.us/j/89757747826

- Internet: Join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet. Attendees should use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.
- Phone: To join the Zoom meeting using a phone, use the following phone numbers and Webinar ID: US: 1 (346) 248-7799 - Webinar ID: **897 5774 7826**. Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Mayor to speak at the appropriate time.

1. Call to Order
2. Pledge of Allegiance
    a. Councilor Faulkner
3. Salute to the New Mexico Flag
    a. Councilor Cassutt
4. Invocation and Rememberances
    a. Councilor Lindell
5. Roll Call
6. Approval of Agenda
7. Approval of Consent Agenda
8. Presentations
    a. Fiscal Year 2024 Audit Report (Emily K. Oster, Finance Director; ekoster@santafenm.gov, and AJ Bowers, Partner, Carr Riggs & Ingram CPAs and Advisors)
    b. Update on Impact Fees and Capital Improvements Advisory Committee (Regina Wheeler, Public Works Department Director; rawheeler@santafenm.gov)
9. Action Items: Consent Agenda
    a. Request for Approval of the January 29, 2025 Regular Governing Body Meeting Minutes. (Geralyn Cardenas, Assistant City Clerk; gfcardenas@santafenm.gov)

        Committee Review:
        Governing Body: 02/12/2025

    b. Request for Approval of New Mexico Department of Finance and Administration General Fund 93100 Capital Appropriation Project Grant Agreement 23-H3200 in the Total Amount of $210,000 for Renovations to El Museo Cultural de Santa Fe Facility with a Reversion Date of June 30, 2027. (Tim Farrell, Public Works Property Development Manager; tgfarrell@santafenm.gov)

        1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $210,000 from the 2023 Capital Appropriation to FY25 Revenue and Expenses

for the Santa Fe Railyard.

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

c. Request for Approval to Change the Purpose of a Previously Approved Budget Amendment Resolution (BAR) in the Total Amount of $1,500,000, from Moving Land Use Staff Move to the City Owned Market Station Condominium, to Moving Information Technology and Telecommunications Staff to the City Owned Market Station Condominium. (Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

d. Request for Approval of a Memorandum of Agreement with Santa Fe County Regarding the County's Contribution of Funds to the City for Water and Wastewater Planning. (Bill Schneider, Water Resources and Conservation Manager; whschneidre@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body 02/12/2025

e. Request for Approval of Professional Services Contract with Santa Fe Public Schools for the Continuation of the Work Based Learning Internship Program Utilizing One Time Funding In the Total Amount of $1,200,000 for a Four-Year Term. (Lizzy Portillo, Economic Development Specialist, emportillo@santafenm.gov and Johanna Nelson, Director Office of Economic Development, jcnelson@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/05/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

f. Request for Approval of a Grant Agreement with New Mexico Department of Finance and Administration in the Total Amount of $2,000,000 for the Capital Project 24-I3146 Phase II of the Airport Terminal Expansion. (James Harris, Airport Director, jcharris@santafenm.gov)

1. Request For Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,980,000 from the Legislative Grant Revenue to WIP Design for Phase II of the Airport Terminal Expansion Project.

Committee Review:
Public Works & Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

g. Request for Approval of Amendment No. 1 to Item #23-0013 Capital Appropriation Project Grant Agreement A20E5289 with New Mexico Aging and Long-Term Services Department to Extend the Term through June 30, 2025, for Planning and Design of a New Senior Center. (Manuel Sanchez, Senior Services Division Director; mnsanchez@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/05/2025
Finance Committee: 02/10/2025
Governing Body: 02/15/2025

h. Request for Approval of Amendment No.1 to Item #22-0514 Capital Appropriation Project Grant Agreement #A20E5290 with New Mexico Aging and Long-Term Services Department to Extend the Term through June 30, 2025, to Purchase and Equip Vehicles for the Mary Esther Gonzales Senior Center. (Manuel Sanchez, Senior Services Division Director; mnsanchez@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/05/2025
Finance Committee: 02/10/2025
Governing Body: 02/15/2025

i. Request for Approval of Contract Amendment No. 1 to Item #22-0541 Capital Appropriation Project Grant Agreement #A20E5288 with State of New Mexico Aging and Long-Term Services Department to Extend the Term through June 30, 2025, to Plan, Design, Construct, Equip and Furnish the Mary Esther Gonzales Senior Center. (Manuel Sanchez, Senior Services Division Director; mnsanchez@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/05/2025
Finance Committee: 02/10/2025
Governing Body: 02/15/205

j. Request for Approval of Capital Appropriation Agreement 22-G3016 with New Mexico Department of Finance and Administration in the Total Amount of

$200,000 for Improvements to the City Facility Leased to Kitchen Angels with a Reversion Date of June 30, 2026. (Caryn Grosse, PMP, Public Works Project Manager III, clgrosse@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $198,000 from the 2022 Capital Appropriation to FY25 Revenue and Expenses for Renovations to Facility Leased to Kitchen Angels.

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

k. Request for Approval of Capital Appropriation Agreement 23-H3202 with New Mexico Department of Finance and Administration in the Total Amount of $200,000 for Improvements to the City Facility Leased to Kitchen Angels with a Reversion Date of June 30, 2027. (Caryn Grosse, PMP, Public Works Project Manager III, clgrosse@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $198,000 from the 2023 Capital Appropriation to FY25 Revenue and Expenses for Renovations to Facility Leased to Kitchen Angels.

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

l. Request for Approval of Capital Appropriation Agreement with New Mexico Department of Finance and Administration in the Total Amount of $100,000 for Project 24-I4220 Improvements to the City Facility Leased to Kitchen Angels with a Reversion Date of June 30, 2026. (Caryn Grosse, PMP, Public Works Project Manager III, clgrosse@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $100,000 from the 2024 Capital Appropriation to FY25 Revenue and Expenses for Renovations to Facility Leased to Kitchen Angels.

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

m. Request for Approval of Capital Appropriation Agreement with New Mexico Department of Finance and Administration in the Total Amount of $29,843 for Project 24-I4221 Municipal Court Renovations with a Reversion Date of June

30, 2026. (Caryn Grosse, PMP, Public Works Project Manager III, clgrosse@santafenm.gov)

1. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $29,843 from the 2024 Capital Appropriation to FY25 Revenue and Expenses for Municipal Court Renovations.

Committee Review:
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

n. Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $150,000 to Fund FY25 Grants and Services of State-Deposited Funds for the Parting Stone LEDA Project, in Accordance with Ordnance 2024-10. (Casey Dalbor, Business Growth Manager, Office of Economic Development; cjdalbor@santafenm.gov and Johanna Nelson, Director, Office of Economic Development; jcnelson@santafenm.gov)

Committee Review:
Quality of Life Committee: 02/05/2025
Finance Committee: 02/10/2025
Governing Body: 02/15/2025

o. Request for Approval of Findings of Fact and Conclusions of Law for Land Use Appeal Nos. 2024-8995-APPL and 2024-8996-APPL of Case # 2023-7662, in which the Governing Body Voted During the Special Governing Body Meeting on January 9, 2025 to Deny the Appeal by Appellant Bungalows on Cerrillos, LLC, in which Appellant Asked the Governing Body to Reverse the Planning Commission's Decisions to Deny a Setback Variance and a Slope Variance for a Proposed Multi-Family Housing Development, Located at the Northwest Corner of Cerrillos Road and West I-25 Frontage Road. (Rebecca Mnuk-Herrmann, Assistant City Attorney, ramnukherrmann@santafenm.gov)

Committee Review:
Governing Body: 02/12/2024

p. Request for Approval of Findings of Fact and Conclusions of Law for Land Use Appeal #2024-8666 by Appellant Ferran Properties LLC, in which Appellant Asked the Governing Body to Reverse a Land Use Director Decision Not to Take Enforcement Action Against Mr. G's Auto Sales LLC, aka Mr. G's Pro Tow, Located at 7625 Baca Lane, and which the Governing Body Denied at the January 15, 2025 Regular Governing Body Meeting Due to Lack of a Final, Appealable Action. (Rebecca Mnuk-Herrmann Assistant City Attorney, ramnukherrmann@santafenm.gov)

Committee Review:
Governing Body: 02/12/2025

q. CONSIDERATION OF RESOLUTION NO. 2025___. (Councilor Amanda Chavez)
A Resolution Authorizing Representatives and Agents for New Mexico Department of Finance and Administration, Appropriation ID Number I3318, New Mexico Department of Transportation Control Number C5243318, to Acquire Rights of Way for and to Plan, Design, and Construct a Road Connection from New Mexico Highway 599- Jaguar Drive Interchange to the Santa Fe Regional Airport for the City of Santa Fe in Santa Fe County. (Regina Wheeler, Public Works Director; rawheeler@santafe.gov)

Committee Review:
Governing Body (Introduced): 01/29/2025
Public Works and Utilities Committee: 02/03/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

r. CONSIDERATION OF RESOLUTION NO. 2025___. (Councilor Jamie Cassutt and Councilor Carol Romero-Wirth)
A Resolution Supporting the New Mexico Food Charter's Report Card for 2023-2024 Priorities and Identifying Priority Food Polices. (Maria Sanchez-Tucker, Community Services Division Director; metucker@santafenm.gov)
Committee Review:
Governing Body (Introduced): 01/29/2025
Quality of Life Committee: 02/05/2025
Governing Body: 02/12/2025

s. CONSIDERATION OF RESOLUTION NO. 2025___. (Mayor Alan Webber, Councilor Jamie Cassutt, and Councilor Michael Garcia)
A Resolution Accepting a Donation for the Design and Construction of a New Championship Soccer Field and Associated Infrastructure and Directing Next Steps Upon Receipt of the Donation. (Melissa McDonald, Parks and Open Space Division Director; mamcdonald@santafenm.gov)

Committee Review:
Governing Body: 01/29/2025
Public Works and Utilities Committee: 02/03/2025
Quality of Life Committee: 02/05/2025
Finance Committee: 02/10/2025
Governing Body: 02/12/2025

10. Action Items: Discussion Agenda

a. Request for Approval of a Budget Amendment Resolution (BAR) to Allocate Road Impact Fees in the Total Amount of $933,000 to Complete Streets Roadways WIP Construction for the Agua Fria South Meadows Intersection Improvements Project. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager; rsglorioso-moss@santafenm.gov)

Committee Review:
Finance Committee: 02/10/2025

Governing Body: 02/12/2025

11. Matters from the City Manager

12. Matters from the City Attorney

    a. **EXECUTIVE SESSION**
    In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Subpart (H)(7), Attorney-Client Privileged Discussion of Pending and Threatened Litigation, Through a Quarterly Litigation Update, including, but not Limited to, Discussion of *Hill et. al vs. City of Santa Fe*, A-1-CA-42062, and *Education Retirement Board vs. City of Santa Fe*, D-101-CV-2024-02691. (Erin K. McSherry, City Attorney: ekmcsherry@santafenm.gov).

13. Matters from the City Clerk

14. Communications from the Governing Body

15. Introduction of Legislation

    a. CONSIDERATION OF RESOLUTION NO. 2025____.(Councilor Jamie Cassutt and Councilor Alma Castro)
    A Resolution Authorizing the Sale and Consumption of Beer During the 2025 Santa Fe Century on May 17th and 18th, 2025, Pursuant to Section 23-6.2(C) SFCC 1987. (Andréa Salazar, City Clerk; asalazar@santafenm.gov)

    Committee Review:
    Governing Body: 02/12/2025
    Quality of Life Committee: 02/19/2025
    Governing Body: 02/26/2025

    b. CONSIDERATION OF RESOLUTION NO. 2025____.(Councilor Amanda Chavez)
    A Resolution Authorizing Representatives and Agents for an Agreement with New Mexico Department of Finance and Administration, Regarding Appropriation Number G3170, New Mexico Department of Transportation Control Number C5223170, to Acquire Easements and Rights of Way for and to Plan, Design, Construct, and Improve Pacheco Street, Including Pedestrian and Bicycle Improvements Between West San Mateo Road and Alta Vista Street. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager; rsglorioso-moss@santafenm.gov)

    Committee Review:
    Governing Body: 02/12/2025
    Public WorksCommittee: 02/17/2025
    Finance Committee: 02/24/2025

Governing Body: 02/26/2025

c. CONSIDERATION OF RESOLUTION NO. 2025____.(Councilor Amanda Chavez and Councilor Jamie Cassutt)
A Resolution Authorizing Representatives and Agents for an Agreement With the New Mexico Department of Finance and Administration Regarding Appropriation ID Number G3169, New Mexico Department of Transportation Control Number C5223169, to Acquire Easements and Rights of Way for and to Plan, Design, Construct, and Repair Governor Miles Road from Richards Avenue to Nizhoni Drive. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager; rsglorioso-moss@santafenm.gov)

Committee Review:
Governing Body: 02/12/2025
Public Works Committee: 02/17/2025
Finance Committee: 02/24/2025
Governing Body: 02/26/2025

16. Petitions from the Floor

17. Public Comment on Bills (First Public Comment, No Action)

18. Final Action on Legislation (Public Hearing)

19. Public Hearings (Land Use Cases, Appeals and Other Items Required to Have a Public Hearing)

20. Appointments

21. Adjourn

Closed captions are provided for this meeting. Persons with disabilities in need of additional accommodations, contact the City Clerk's office at 505-955-6521, five (5) working days prior to meeting date.

SUMMARY OF ACTION
REGULAR MEETING OF THE GOVERNING BODY
WEDNESDAY, FEBRUARY 12, 2025, 5:00 PM
COUNCIL CHAMBERS, CITY HALL
200 LINCOLN AVENUE, SANTA FE, NEW MEXICO

1.	**Call To Order**	**Convened at 5:05 pm**	**3**
2.	**Pledge of Allegiance**	**Councilor Romero-Wirth**	**3**
3.	**Salute to the NM Flag**	**Councilor Cassutt**	**3**
4.	**Invocation and Remembrances**	**Councilor Lindell**	**3**
5.	**Roll Call**	**Quorum**	**3-4**
6.	**Approval of Agenda**	**Approved as Amended**	**4**
7.	**Approval of Consent Agenda**	**Approved as Amended**	**4**
8.	**Presentations**		
	a. 2024 Audit	**Given**	**4**
	b. Impact Fees	**Given**	**4**
9.	**Action Items: Consent Agenda**	**Approved**	**4-8**
10.	**Action Items: Discussion Items**		
	a. BAR	**Approved**	**8-9**
11.	**Matters from the City Manager**	**Heard**	**9**
12.	**Matters from the City Attorney**	**Heard**	**9**
13.	**Matters from the City Clerk**	**Heard**	**9**
14.	**Communications Gov. Body**	**Heard**	**9-10**
16.	**Petitions From the Floor**	**Heard**	**10**
15.	**Introduction of Legislation**		
	a. Resolution No. 2025_____	**Introduced**	**10**
	b. Resolution No. 2025_____	**Introduced**	**10**

	c.	**Resolution No. 2025_____**	**Introduced**	**10**
12.	**Executive Session**	**Held**		**11**
17.	**Public Comment on Bills**	**None**		**11**
18.	**Final Action on Legislation**		**None**	**11**
19.	**Public Hearings**		**None**	**11-12**
20.	**Appointments**		**None**	**12**
21.	**Adjourn**		**Adjourned at 7:39 pm**	**12**

REGULAR MEETING OF THE GOVERNING BODY
WEDNESDAY, FEBRUARY 12, 2025, 5:00 PM
COUNCIL CHAMBERS, CITY HALL
200 LINCOLN AVENUE, SANTA FE, NEW MEXICO

1. CALL TO ORDER

The regular meeting of the Governing Body was called to order by Mayor Webber at 5:09 pm, on Wednesday, February 12, 2025, in the Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilor Romero-Wirth.

3. SALUTE TO THE NEW MEXICO FLAG

The salute to the New Mexico Flag was led by Councilor Cassutt.

4. INVOCATION AND REMEMBRANCES

The invocation was given by Councilor Lindell.

A moment of silence and remembrances were given.

5. ROLL CALL

MEMBERS PRESENT
Mayor Alan Webber
Councilor Signe Lindell
Councilor Jamie Cassutt
Councilor Alma Castro
Councilor Amanda Chavez, virtually
Councilor Lee Garcia
Councilor Michael Garcia
Councilor Carol Romero-Wirth

MEMBERS EXCUSED
Councilor Faulkner, Excused

OTHERS PARTICIPANTS ATTENDING
Randy Randall, Interim City Manager
Erin McSherry, City Attorney

Andrea Salazar, City Clerk
Elizabeth Martin, Stenographer, virtually

6. APPROVAL OF AGENDA

MOTION A motion was made by Councilor Lindell, seconded by Commissioner Castro, to approve the agenda as presented.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

7. APPROVAL OF CONSENT AGENDA

MOTION A motion was made by Councilor Lindell, seconded by Councilor Michael Garcia, to approve the consent agenda as presented.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

8. PRESENTATIONS

A. FISCAL YEAR 2024 AUDIT REPORT

Presented.

B. UPDATE ON IMPACT FEES AND CAPITAL IMPROVEMENTS ADVISORY COMMITTEE

Presented.

9. ACTION ITEMS: CONSENT AGENDA

A. REQUEST FOR APPROVAL OF THE JANUARY 29, 2025 REGULAR GOVERNING BODY MEETING MINUTES.

Approved on consent.

B. REQUEST FOR APPROVAL OF NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION GENERAL FUND 93100 CAPITAL APPROPRIATION PROJECT GRANT AGREEMENT 23-H3200 IN THE TOTAL AMOUNT OF $210,000 FOR RENOVATIONS TO EL MUSEO CULTURAL DE SANTA FE FACILITY WITH A REVERSION DATE OF JUNE 30, 2027.

Approved on consent.

C. REQUEST FOR APPROVAL TO CHANGE THE PURPOSE OF A PREVIOUSLY APPROVED BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $1,500,000, FROM MOVING LAND USE STAFF MOVE TO THE CITY OWNED MARKET STATION CONDOMINIUM, TO MOVING INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS STAFF TO THE CITY OWNED MARKET STATION CONDOMINIUM.

Approved on consent.

D. REQUEST FOR APPROVAL OF A MEMORANDUM OF AGREEMENT WITH SANTA FE COUNTY REGARDING THE COUNTY'S CONTRIBUTION OF FUNDS TO THE CITY FOR WATER AND WASTEWATER PLANNING.

Approved on consent.

E. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES CONTRACT WITH SANTA FE PUBLIC SCHOOLS FOR THE CONTINUATION OF THE WORK BASED LEARNING INTERNSHIP PROGRAM UTILIZING ONE TIME FUNDING IN THE TOTAL AMOUNT OF $1,200,000 FOR A FOUR-YEAR TERM.

Approved on consent.

F. REQUEST FOR APPROVAL OF A GRANT AGREEMENT WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION IN THE TOTAL AMOUNT OF $2,000,000 FOR THE CAPITAL PROJECT 24-13146 PHASE II OF THE AIRPORT TERMINAL EXPANSION.

Approved on consent.

G. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO ITEM #23 -0013 CAPITAL APPROPRIATION PROJECT GRANT AGREEMENT

A20E5289 WITH NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT TO EXTEND THE TERM THROUGH JUNE 30, 2025, FOR PLANNING AND DESIGN OF A NEW SENIOR CENTER.

Approved on consent.

H. REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO ITEM #22–514 CAPITAL APPROPRIATION PROJECT GRANT AGREEMENT #A20E5290 WITH NEW MEXICO AGING AND LONG-TERM SE3RVICES DEPARTMENT TO EXTEND THE TERM THROUGH JUNE 30, 2025, TO PURCHASE AND EQUIP VEHICLES FOR THE MARY ESTHER GONZALES CENTER.

Approved on consent.

I. REQUEST FOR APPROVAL OF CONTRACT AMENDMENT NO. 1 T ITEM #22-0541 CAPITAL APPROPRIATION PROJECT GRANT AGREEMENT #A20e5288 WITH STATE OF NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT TO EXTEND THE TERM THROUGH JUNE 20, 2025, TO PLAN, DESIGN, CONSTRUCT, EQUIP AND FURNISH THE MARY ESTHER GONZALES SENIOR CENTER.

Approved on consent.

J. REQUEST FOR APPROVAL OF CAPITAL APPROPRIATION AGREEMENT 22-G3016 WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION IN THE TOTAL AMOUNT OF $200,000 FOR IMPROVEMENTS TO THE CITY FACILITY LEASED TO KITCHEN ANGELS WITH A REVERSION DATE OF JUNE 30, 2026.

Approved on consent.

K. REQUEST FOR APPROVAL OF CAPITAL APPROPRIATION AGREEMENT 23-H3202 WITH NEW MEXICO FINANCE DEPARTMENT OF FINANCE AND ADMINISTRATION IN THE TOTAL AMOUNT OF $200,000 FOR IMPROVEMENTS TO THE CITY FACILITY LEASED TO KITCHEN ANGELS WITH A REVERSION DATE OF JUNE 30, 2027.

Approved on consent.

L. REQUEST FOR APPROVAL OF CAPITAL APPROPRIATION AGREEMENT WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION IN THE TOTAL AMOUNT OF $100,000 FOR

PROJECT 24-I4220 IMPROVEMENTS TO THE CITY FACILITY LEASED TO KITCHEN ANGELS WITH A REVERSION DATE OF JUNE 30, 2026.

Approved on consent.

M. REQUEST FOR APPROVAL OF CAPITAL APPROPRIATION AGREEMENT WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION IN THE TOTAL AMOUNT OF $29,843 FOR PROJECT 24-I4221 MUNICIPAL COURT RENOVATIONS WITH A REVERSION DATE OF JUNE 30, 2026.

Approved on consent.

N. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) IN THE TOTAL AMOUNT OF $150,000 TO FUND FY25 GRANTS AND SERVICES OF STATE-DEPOSITED FUNDS FOR THE PARTING STONE LEDA PROJECT, IN ACCORDANCE WITH ORDINANCE 2024-10.

Approved on consent.

O. REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR LAND USE APPEAL NOS. 2024-8995-APPL AND 2024-8996-APPL OF CASE # 2023-7662, IN WHICH THE GOVERNING BODY VOTED DURING THE SPECIAL GOVERNING BODY MEETING ON JANUARY 9, 2025 TO DENY THE APPEAL BY APPELLANT BUNGALOWS ON CERRILLOS, LLC, IN WHICH APPELLANT ASKED THE GOVERNING BODY TO REVERSE THE PLANNING COMMISSION'S DECISIONS TO DENY A SETBACK VARIANCE AND A SLOPE VARIANCE FOR A PROPOSED MULTI-FAMILY HOUSING DEVELOPMENT, LOCATED AT THE NORTHWEST CORNER OF CERRILLOS ROAD AND WEST 1-25 FRONTAGE ROAD.

Approved on consent.

P. REQUEST FOR APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR LAND USE APPEAL #2024-8666 BY APPELLANT FERRAN PROPERTIES LLC, IN WHICH APPELLANT ASKED THE GOVERNING BODY TO REVERSE A LAND USE DIRECTOR DECISION NOT TO TAKE ENFORCEMENT ACTION AGAINST MR. G'S AUTO SALES LLC, AKA MR. G'S PRO TOW, LOCATED AT 7625 BACA LANE, AND WHICH THE GOVERNING

BODY DENIED AT THE JANUARY 15, 2025 REGULAR GOVERNING BODY MEETING DUE TO LACK OF A FINAL, APPEALABLE ACTION.

Approved on consent.

Q. CONSIDERATION OF RESOLUTION NO. 2025_____. A RESOLUTION AUTHORIZING REPRESENTATIVES AND AGENTS FOR THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, APPROPRIATION ID NUMBER I3318, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5243318, TO ACQUIRE RIGHTS OF WAY FOR AND TO PLAN, DESIGN, AND CONSTRUCT A ROAD CONNECTION FROM NEW MEXICO HIGHWAY 599 - JAGUAR DRIVE INTERCHANGE TO SANTA FE REGIONAL AIRPORT FOR THE CITY OF SANTA FE IN SANTA FE COUNTY.

Approved on consent.

R. CONSIDERATION OF RESOLUTION NO. 2025_____. A RESOLUTION SUPPORTING THE NEW MEXICO FOOD CHARTER'S REPORT CARD FOR 2023-2024 PRIORITIES AND IDENTIFYING PRIORITY FOOD POLICIES.

Approved on consent.

S. CONSIDERATION OF RESOLUTION NO. 2025_____. A RESOLUTION ACCEPTING A DONATION FOR THE DESIGN AND CONSTRUCTION OF A NEW CHAMPIONSHIP SOCCER FIELD AND ASSOCIATED INFRASTRUCTURE AND DIRECTING NEXT STEPS UPON RECEIPT OF THE DONATION.

Approved on consent.

10. ACTION ITEMS: DISCUSSION AGENDA

A. REQUEST FOR APPROVAL OF A BUDGET AMENDMENT RESOLUTION (BAR) TO ALLOCATE ROAD IMPACT FEES IN THE TOTAL AMOUNT OF $933,000 TO COMPLETE STREETS ROADWAYS WIP CONSTRUCTION FOR THE AGUA FRIA SOUTH MEADOWS INTERSECTION IMPROVEMENTS PROJECT.

MOTION A motion was made by Councilor Chavez, seconded by Councilor Castro, to approve the request.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

11. MATTERS FROM THE CITY MANAGER

Heard.

12. MATTERS FROM THE CITY ATTORNEY

Heard

A. EXECUTIVE SESSION

IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT, NMSA 1978, SECTION 10-15-1, SUBPART (H)(7), ATTORNEY CLIENT PRIVILEGED DISCUSSION OF PENDING AND THREATENED LITIGATION, THROUGH A QUARTERLY LITIGATION UPDATE, INCLUDING , BUT NOT LIMITED TO DISCUSSION OF *HILL ET. AL VA. CITY OF SANTA FE,* A-1-CA-42062, AND *EDUCATION RETIREMENT BOARD VS. CITY OF SANTA FE,* D-101-CV-2024-02691.

MOTION A motion was made by Councilor Michael Garcia, seconded by Councilor Lee Garcia, to table the Executive Session.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Mayor Webber, yes.

13. MATTERS FROM THE CITY CLERK

Heard.

14. COMMUNICATIONS FROM THE GOVERNING BODY

Heard.

MOTION A motion was made by Councilor Cassutt, seconded by Councilor Castro,

to go to Petitions From The Floor.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

16. PETITIONS FROM THE FLOOR

Stephanie Beninato. Ms. Beninato spoke about the Zoom link not working, public records requests and the recent appeal.

15. INTRODUCTION OF LEGISLATION

A. CONSIDERATION OF RESOLUTION NO. 2025_____. A RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF BEER DURING THE 2025 SANTA FE CENTURY ON MAY 17TH AND 18TH, 2025, PURSUANT TO SECTION 23-6.2 C SFCC 1987.

Introduced.

B. CONSIDERATION OF RESOLUTION NO. 2025_____. A RESOLUTION

AUTHORIZING REPRESENTATIVES AND AGENTS FOR AN AGREEMENT WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, REGARDING APPROPRIATION NUMBER G3170, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5223170, TO ACQUIRE EASEMENTS AND RIGHTS OF WAY FOR AND TO PLAN, DESIGN, CONSTRUCT, AND IMPROVE PACHECO STREET, INCLUDING PEDESTRIAN AND BICYCLE IMPROVEMENTS BETWEEN WEST SAN MATEO ROAD AND ALTA VISTA STREET.

Introduced.

C. CONSIDERATION OF RESOLUTION NO. 2025_____. A RESOLUTION AUTHORIZING REPRESENTATIVES AND AGENTS FOR AN AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION REGARDING APPROPRIATION ID NUMBER G3169, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5223169, TO ACQUIRE EASEMENTS AND RIGHTS OF WAY FOR AND TO PLAN, DESIGN,

CONSTRUCT, AND REPAIR GOVERNOR MILES ROAD FROM RICHARDS AVENUE TO NIZHONI DRIVE.

Introduced.

MOTION A motion was made by Councilor Cassutt, seconded by Councilor Castro, to remove the Executive Session from the table.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

EXECUTIVE SESSION

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Cassutt, to, in accordance with the New Mexico Open Meetings Act, NMSA 1978, section 10-15-1, subpart (H)(7), enter into Executive Session.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

The Governing Body entered into Executive Session at 7:14 pm.

MOTION A motion was made by Councilor Romero-Wirth, seconded by Councilor Cassutt, to reconvene in open session and that no action was taken during Executive Session.

VOTE The motion passed on a roll call vote as follows:

Councilor Lindell, yes; Councilor Cassutt, yes; Councilor Castro, yes; Councilor Chavez, yes; Councilor Lee Garcia, yes; Councilor Michael Garcia, yes; Councilor Romero-Wirth, yes; Mayor Webber, yes.

The Governing Body reconvened in open session at 7:34 pm.

17. PUBLIC COMMENT ON BILLS

None.

18. FINAL ACTION ON LEGISLATION

None.

19. PUBLIC HEARINGS

None.

20. APPOINTMENTS

None.

21. ADJOURN

There being no further business before the Governing Body, the meeting adjourned at 7:39 pm.

Approved By:

_____
Mayor Alan Webber

Attested To By:

_____
Andrea Salazar, City Clerk

Respectfully Submitted By:

Elizabeth Martin
Elizabeth Martin (Feb 18, 2025 12:24 MST)
_____
Elizabeth Martin, Stenographer

GOVERNING BODY MEETING
EXECUTIVE SESSION
February 12, 2025

The Governing Body of the City of Santa Fe met in an executive session duly called on February 12, 2025, beginning at 7:20 p.m.

The following was discussed:

In Accordance with the New Mexico Open Meetings Act, NMSA 1978, Section 10-15-1, Subpart (H)(7), Attorney-Client Privileged Discussion of Pending and Threatened Litigation, through a Quarterly Litigation Update, including, but not Limited to, Discussion of *Hill et. al vs. City of Santa Fe*, A-1-CA-42062, and *Education Retirement Board vs. City of Santa Fe*, D-101-CV-2024-02691. (Erin K. McSherry, City Attorney:ekmcsherry@santafenm.gov).

PRESENT
Mayor Webber
Councilor Lindell
Councilor Castro
Councilor M. Garcia
Councilor Romero-Wirth
Councilor L. Garcia
Councilor Cassutt
Councilor Chavez

STAFF PRESENT
Randy Randall, Interim City Manager
Erin McSherry City Attorney
Andréa Salazar, City Clerk/Director of Community Engagement
Marcos Martinez, Senior Assistant City Attorney
Rebecca Mnuk-Hermann, Assistant City Attorney (Arrived at 7:20 PM Left at 7:26 PM)
Heather Lamboy, Land Use Director (Arrived at 7:20 PM Left at 7:25 PM)

There being no further business to discuss, the executive session was adjourned at 7:35 p.m.

ANDREA SALAZAR (Feb 13, 2025 10:52 MST)

Andréa Salazar, City Clerk/Director of Community Engagement

CITY OF SANTA FE

Date: December 16, 2024

To: Governing Body

From: Joshua Bohlman, Public Works Project Manager Joshua Bohlman

Via: Regina Wheeler, Public Works Director Regina Wheeler Regina Wheeler (Dec 17, 2024 17:26 MST)
Sam Burnett, Facilities Division Director JOHN BURNETT (Dec 17, 2024 12:41 MST)
Melissa McDonald, Parks and Open Space Director Melissa McDonald

Subject: Railyard Irrigation & Water Harvesting Repair and Construction

Vendor Name: Accent Landscape Contractors, Inc.

Vendor Number: 9331

ACTION:
Request for Approval of General Services Contract with Accent Landscape Contractors, Inc. in the Total Amount of $637,807.74 for the Railyard Park Irrigation and Water Harvesting System Replacement and Repairs with Term Ending June 30, 2026. (Joshua Bohlman, Public Works Project Manager, jbohlman@santafenm.gov)

Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $750,000 From the Railyard Fund Balance Into Railyard Operations – WIP Construction to Cover the Cost of the Railyard Irrigation and Water Harvesting Improvements.

CONTRACT NUMBER:
The FY25 Munis Contract Number is 3250258.

BACKGROUND AND SUMMARY:
The horticulture in the Railyard Park is a primary feature of the park and provides free education and experience of a biodiversity of native and drought tolerant plants for residents and visitors. The plants and trees in the park are struggling because the irrigation system, built in 2008, is past its useful life and must be replaced with an upgraded system. This new irrigation system is essential to preserve the plants and trees in the park and will provide considerably more efficient use of water while also enhancing the park's sustainability and aesthetics.

The Railyard water harvesting system has been largely inoperable for a number of years. The Facilities Division will restore the Railyard's water harvesting system. This currently inoperable infrastructure will be reactivated to capture roof runoff, supplementing the new irrigation system and further promoting responsible water use.

These two projects reestablish the demonstration of holistic water management, that is a fundamental feature of the park.

The included BAR will transfer funding from the Railyard's fund balance into operations to cover the cost of both the new irrigation system ($637,807) and water harvesting ($112,193) projects.

ATTACHMENTS:
General Services Contract
Proposal
New Mexico State Price Agreement #30-000000-23-00091
Certificate of Insurance
Horizons Declination
CPO Determination
BAR

PROCUREMENT METHOD:
The procurement method is New Mexico State Price Agreement, General Services #30-000000-23-00091 which expires July 20, 2025.

Chief Procurement Officer (CPS)/Designee: _____ Date: Jan 22, 2025
CPO Comment/Exceptions: NMSA 1978, Section 13-1-129

FUNDING SOURCE:
Fund Name/Number: Railyard/515
Munis Org Name/Number: Railyard Operations/5150403
Munis Object Name/Number: WIP Construction/572970

Budget Officer/Designee: ALEXIS LOTERO (Jan 21, 2025 15:02 MST) Date: Jan 21, 2025
Budget Officer Comment/Exceptions: _____

ASSOCIATED APPROVALS:
IT Components included? ☐ Yes | ☑ No
Approval: _____ Date: _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☑ No
Approval: _____ Date: _____
Comment/Exceptions: _____

Construction, Facilities, Furniture, Fixtures, Equipment included? ☑ Yes | ☐ No
Approval: _____ **Signature:** JOHN BURNETT (Dec 17, 2024 12:41 MST) _____
Comment/Exceptions: _____
Email: jsburnett@santafenm.gov

Capital Asset* or Project? ☑ Yes | ☐ No**
Project Ledger#: PWA2551501
(*will this procurement result in a tangible item that costs more than $5,000?)
(**Capital Projects are new and improvement projects that are going to cost $10,000 or more)
Approval: Josie Bolden Date: Jan 22, 2025
Comment/Exceptions: _____

Is this a Grant Funded Purchase? ☐ Yes | ☑ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Anticipated length of project: completion on or before 6/30/2026

Department Contract Administrator Contact Info:
Elizabeth L. Kahahane (elkahahane@santafenm.gov)

Item #: _____
Munis Contract #: 3250258
SWPA #: 30-000000-23-00091

CITY OF SANTA FE
GENERAL SERVICES CONTRACT

Railyard Irrigation Installation Services

THIS CONTRACT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City," and **Accent Landscape Contractors Inc.**, herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions**

A. "Products and Services Schedule" refers to the complete list of products and services offered under this Contract and the price for each. Product and service descriptions may be amended with the prior approval of the Contract 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.

2. **Scope of Work**

A. The Contractor shall perform the following work:

Install a new irrigation system at the S.F. Railroad Park as per the plans by Pland Collaborative dated 8/6/2024.

3. **Compensation**

Compensation Schedule. The City shall pay to the Contractor based upon fixed prices for each Deliverable, per the schedule outlined in Exhibit A, less retainage, if any, as identified in paragraph C of this Clause..

A. Payment. The total compensation under this Agreement shall not exceed $637,807.74, including New Mexico gross receipts tax and 20% contingency. 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 that is Performance Bond.

4. **Term**

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **June 30, 2026.**

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 Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor, or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

B. Notice: City Opportunity to Cure.

1) The City shall give the 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 Contract 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 Contract 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 Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 17, "Appropriations", of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, 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 Contract. 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 CONTRACT.*

7. **Amendment**

A. This Contract 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 Contract 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 Contract, 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 because of this Contract. 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 Contract or assign any claims for money due or to become due under this Contract 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 Contract without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Contract, nor shall any subcontract obligate direct payment from the City.

11. **Non-Collusion**

In signing this Contract, the Contractor certifies the 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 Contract 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. The 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 Contract, all proposed items are to be NEW and of most current production, unless otherwise specified.

15. **Records and Audit**

During the term of this Contract 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 Contract shall not foreclose the right of the City to recover excessive or illegal payments.

16. **Appropriations**

The terms of this Contract, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the legislature, this Contract, 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 Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract 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 Contract, releases the City, its officers, and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. 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 Contract 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 Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract. 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 Contract, will continue to comply with, and that this Contract 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 Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, 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 Contract 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 Contract 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 Contract to the contrary, the City may immediately terminate the Contract.

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 Contract; Merger**

This Contract 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 contract.

Statewide/Existing Agreements 13-1-129

This Contract is issued against the state or agency Master Agreement, established, and maintained by the New Mexico State Price Agreement, General Services #$30-000000-23-00091, and through this language hereby incorporates this agreement by reference and is included in the order of precedence.

22. **Notice**

The Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, 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 Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

24. **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.

25. **New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Contract 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 Contract modifies or waives any provision of the New Mexico Tort Claims Act.

26. **Applicable Law**

The laws of the State of New Mexico shall govern this Contract, 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, Section 38-3-2. By execution of this Contract, 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 Contract.

27. **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 Contract or to damages resulting from personal injury caused by the Contractor's negligence.

28. **Incorporation by Reference and Precedence**

If this Contract has been procured pursuant to a request for proposals, this Contract 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 Contract, 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 Contract in reverse chronological order; (2) the Contract, 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.

29. **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 Contract may be terminated by the City.

30. **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.

31. **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 Contract. 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 Contract requires. The City has the right to inspect and test all services contemplated under this Contract to the extent practicable at all times and places during the term of the Contract. 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 Contract, the City may require the Contractor to re-perform the services in conformity with the requirements of this Contract 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 Contract; 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 Contract, 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.

32. **Insurance**

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, 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 Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, 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 Contract are sufficient to cover the obligations of Contractor hereunder.

D. Contractor shall maintain the above insurance for the term of this Contract 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.

33. **Impracticality of Performance**

A party shall be excused from performance under this Contract 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.

34. **Invalid Term or Condition**

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

35. **Enforcement of Contract**

A party's failure to require strict performance of any provision of this Contract 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 Contract 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. **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 Contract 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 Contract, 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.

37. **Survival**

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

38. **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 Contract, 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 Contract. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Contract. Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Contract pursuant to the conditions set forth in Paragraph 7 of this Contract.

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 Contract. 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.

39. **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 Contract.

40. **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: Josh Bohlman, CPO Project Manager City of Santa Fe – Facilities Division 2651 Siringo Road, Building E Santa Fe, NM 87505
To the Contractor: Cameron Stevens President Accent Landscape Contractors Inc. 5919 Edith Blvd. NE Albuquerque, NM 87107

41. **Succession**

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

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

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE:

CONTRACTOR:

Cameron Stevens (Nov 12, 2024 10:28 MST)

CAMERON STEVENS, PRESIDENT

DATE: Nov 12, 2024

NMBTIN: 002261620110620

ATTEST:

CITY CLERK

CITY ATTORNEY'S OFFICE:

Kevin L. Nault

Kevin L. Nault (Nov 12, 2024 16:52 MST)

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

EXHIBIT A

Accent
Landscape Contractors Inc.

September 20, 2024

City of Santa Fe
Mr. Josh Bohlman, CPO
Project Administration

CC: Mario Nuno-Whelan
Pland Collaborative Landscape Architects
RE: S.F. Railroad Park irrigation Renovation

Dear Mr. Bohlman,

The follow is our cost proposal to install a new irrigation system at the S.F. Railroad Park as per the plans by Pland Collaborative dated 8/6/2024.

Total cost:	$483,975.00
NMGRT (8.1875%):	$39,625.45
P&P Bonds:	$7,906.00
Total:	$531,506.45

Thank you for the opportunity to provide you with our proposal. Please contact our office if you have any questions.

Respectfully submitted,

P.O. Box 30983 *(505) 881-4880 Office* *(505) 889-9446 Fax*
Albuquerque, NM 87190 *WWW.accentls.org*

General Services_RYD Irrigation_ELK1_JB2_11 1 24_2983-final CAO with Exh A

Final Audit Report 2024-11-12

Created:	2024-11-07
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAcKeGkHtlV03fJlvFKlnzYwFKZ00MBe5N

"General Services_RYD Irrigation_ELK1_JB2_11 1 24_2983-final CAO with Exh A" History

Document created by Amy Cawthon (amcawthon@santafenm.gov)
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2024-11-07 - 6:44:42 PM GMT

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Signer cstevens@accentnm.com entered name at signing as Cameron Stevens
2024-11-12 - 5:28:46 PM GMT- IP address: 174.50.94.154

Document e-signed by Cameron Stevens (cstevens@accentnm.com)
Signature Date: 2024-11-12 - 5:28:48 PM GMT - Time Source: server- IP address: 174.50.94.154

Document emailed to klnault@santafenm.gov for signature
2024-11-12 - 5:28:50 PM GMT

Email viewed by klnault@santafenm.gov
2024-11-12 - 11:51:56 PM GMT- IP address: 104.47.64.254

Signer klnault@santafenm.gov entered name at signing as Kevin L. Nault
2024-11-12 - 11:52:18 PM GMT- IP address: 63.232.20.2

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Document e-signed by Kevin L. Nault (klnault@santafenm.gov)

Signature Date: 2024-11-12 - 11:52:20 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2024-11-12 - 11:52:20 PM GMT

Powered by Adobe Acrobat Sign

Accent
Landscape Contractors Inc.

September 20, 2024

City of Santa Fe
Mr. Josh Bohlman, CPO
Project Administration

CC: Mario Nuno-Whelan
Pland Collaborative Landscape Architects
RE: S.F. Railroad Park irrigation Renovation

Dear Mr. Bohlman,

The follow is our cost proposal to install a new irrigation system at the S.F. Railroad Park as per the plans by Pland Collaborative dated 8/6/2024.

Total cost:	$483,975.00
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Thank you for the opportunity to provide you with our proposal. Please contact our office if you have any questions.

Respectfully submitted,

P.O. Box 30983 (505) 881-4880 Office (505) 889-9446 Fax
Albuquerque, NM 87190 WWW.accentls.org

CITY OF SANTA FE

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

Regina Wheeler — Regina Wheeler — Oct 29, 2024
Signature — Printed Name — Date
Public Works Department Director

The City of Santa Fe Public Works Department Director confirms that it is the intention of the city to have this project constructed according to goals and specifications.

Sam Burnett — Oct 29, 2024
Signature — Printed Name — Date
Facilities Division Director

The City of Santa Fe Facilities Division Director certifies that procedures for design review have been followed and this project is ready to move to construction.

Melissa McDonald — Melissa McDonald — Oct 29, 2024
Signature — Printed Name — Date
Parks and Open Space Director

The City of Santa Fe Parks and Open Space Division Director confirms that it is the intention of the city to have this project constructed according to goals and specifications.

Melissa Houser - Land Program Manager — 10/1/2024
Signature — Printed Name — Date
Santa Fe Conservation Trust Representative

The Santa Fe Conservation Trust confirms that it is the intention of the city to have this project constructed according to goals and specifications.

By signing these plans, the City and the Santa Fe Conservation Trust assumes no liability for the specification compliance, completeness, or constructability of these plans.

OCTOBER 1, 2024
100% FOR CONSTRUCTION

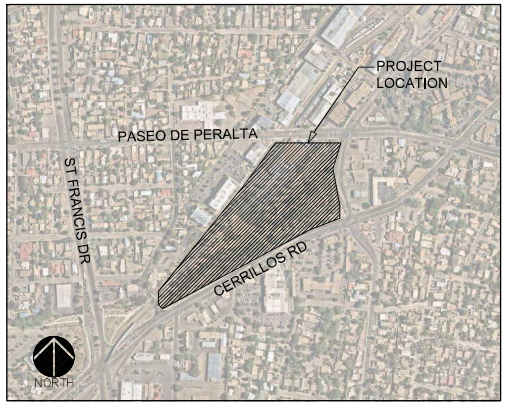
DRAWING INDEX:

1. G001 COVER SHEET
2. LI100 IRRIGATION OVERALL
3. LI101 IRRIGATION PLAN
4. LI102 IRRIGATION PLAN
5. LI103 IRRIGATION PLAN
6. LI104 IRRIGATION PLAN
7. LI501 IRRIGATION DETAILS

LANDSCAPE ARCHITECT:
PLAND COLLABORATIVE
600 1ST ST NW, SUITE 100
ALBUQUERQUE, NM 87102
505-268-2266 PH
ATTN: GREG MILLER, PLA
GMILLER@PLANDCOLLAB.COM

OWNER:
CITY OF SANTA FE
PUBLIC WORKS DEPT | FACILITIES DIVISION
2651 SIRINGO RD - BLDG E
SANTA FE, NM 87504
(505) 955-5740 PH
ATTN: JOSH BOHLMAN
JBOHLMAN@SANTAFENM.GOV

VICINITY MAP



pland COLLABORATIVE
plandcollab.com 505.268.2266

CONSULTANTS

STATE OF NEW MEXICO — GREGORY MILLER — NO. 17 — REGISTERED LANDSCAPE ARCHITECT — 10/1/24

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

REVISIONS

NO.	DATE	DESCRIPTION

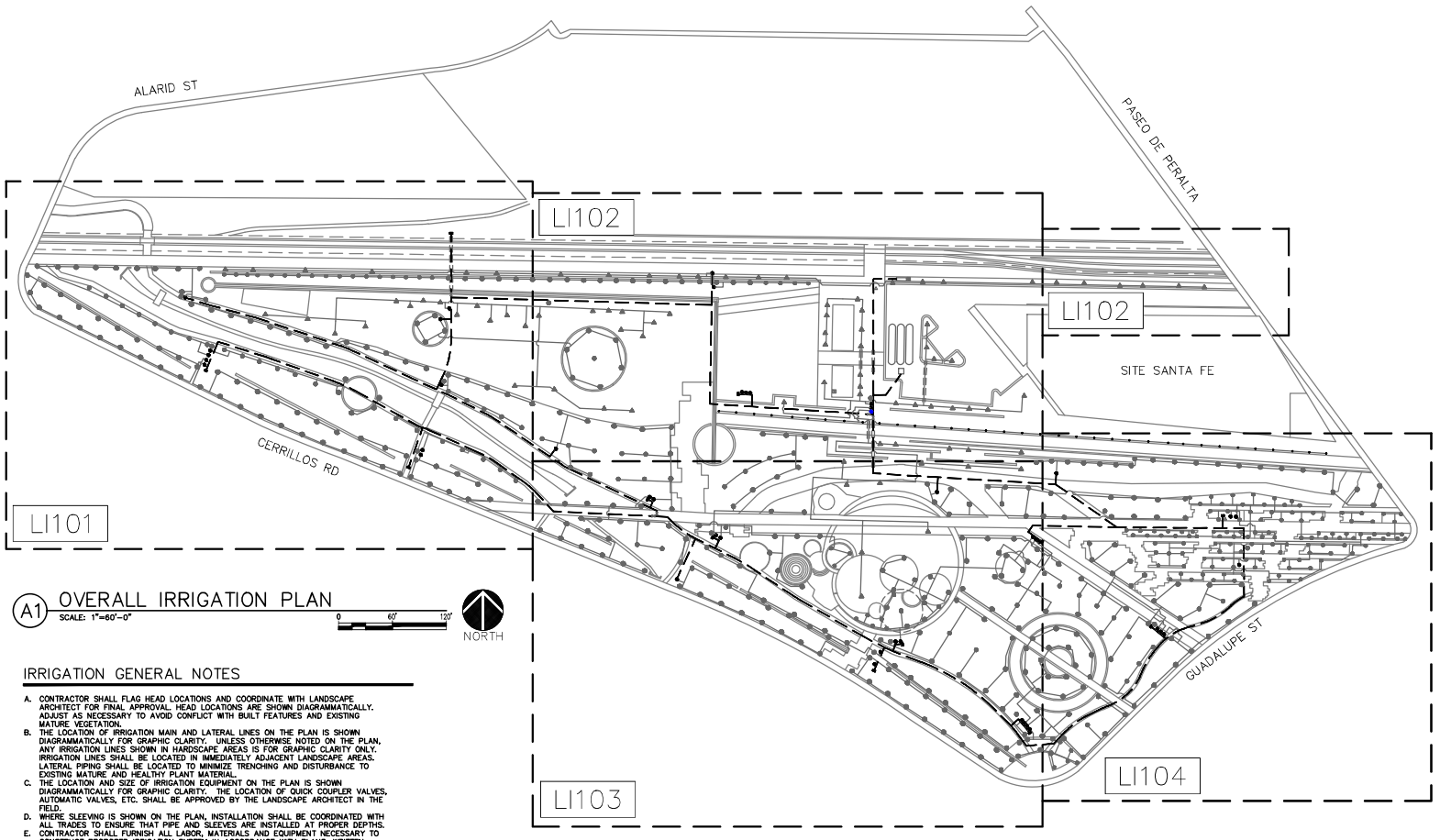
PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY: GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE

COVER SHEET

DRAWING SHEET

G001



A1 OVERALL IRRIGATION PLAN
SCALE: 1"=60'-0"
0 60' 120'

IRRIGATION GENERAL NOTES

A. CONTRACTOR SHALL FLAG HEAD LOCATIONS AND COORDINATE WITH LANDSCAPE ARCHITECT FOR FINAL APPROVAL. HEAD LOCATIONS ARE SHOWN DIAGRAMMATICALLY. ADJUST AS NECESSARY TO AVOID CONFLICT WITH BUILT FEATURES AND EXISTING MATURE VEGETATION.
B. THE LOCATION OF IRRIGATION MAIN AND LATERAL LINES ON THE PLAN IS SHOWN DIAGRAMMATICALLY FOR GRAPHIC CLARITY. UNLESS OTHERWISE NOTED ON THE PLAN, ANY IRRIGATION LINES SHOWN IN HARDSCAPE AREAS IS FOR GRAPHIC CLARITY ONLY. IRRIGATION LINES SHALL BE LOCATED IN IMMEDIATELY ADJACENT LANDSCAPE AREAS. LATERAL PIPING SHALL BE LOCATED TO MINIMIZE TRENCHING AND DISTURBANCE TO EXISTING MATURE AND HEALTHY PLANT MATERIAL.
C. THE LOCATION AND SIZE OF IRRIGATION EQUIPMENT ON THE PLAN IS SHOWN DIAGRAMMATICALLY FOR GRAPHIC CLARITY. THE LOCATION OF QUICK COUPLER VALVES, AUTOMATIC VALVES, ETC. SHALL BE APPROVED BY THE LANDSCAPE ARCHITECT IN THE FIELD.
D. WHERE SLEEVING IS SHOWN ON THE PLAN, INSTALLATION SHALL BE COORDINATED WITH ALL TRADES TO ENSURE THAT PIPE AND SLEEVES ARE INSTALLED AT PROPER DEPTHS.
E. CONTRACTOR SHALL FURNISH ALL LABOR, MATERIALS AND EQUIPMENT NECESSARY TO CONSTRUCT PROPOSED IRRIGATION SYSTEM IN ACCORDANCE WITH PLANS, WRITTEN SPECIFICATIONS AND DETAILS.
F. FOR PVC IRRIGATION PIPING AND EQUIPMENT REFERENCE SPECIFICATION SECTION 328400 – LANDSCAPE IRRIGATION SYSTEM.
G. ALL VALVE BOXES SHALL HAVE PURPLE LIDS TO INDICATE NON-POTABLE WATER..
H. IRRIGATION SYSTEM WAS DESIGNED AT A MINIMUM STATIC PRESSURE OF 60 PSI AT THE POINT OF CONNECTION. CONTRACTOR SHALL VERIFY ACTUAL PSI AND DELIVER RESULTS TO LANDSCAPE ARCHITECT PRIOR TO CONSTRUCTION. IN THE EVENT THE ACTUAL PSI IS LESS THAN 60 PSI THE CONTRACTOR SHALL RECEIVE DIRECTION FROM LANDSCAPE ARCHITECT REGARDING DESIGN MODIFICATIONS IF NECESSARY.
I. ALL WORK AND MATERIALS SHALL MEET LOCAL CODES AND THE NATIONAL ELECTRIC CODE (N.E.C.).
J. AIR RELIEF VALVE LOCATIONS ARE SHOWN SCHEMATICALLY ON THE PLAN AT HIGH POINTS IN ELEVATION. CONTRACTOR SHALL SURVEY FINAL LOCATIONS OF ALL AIR RELEASE VALVES PRIOR TO INSTALLATION TO ENSURE THAT THEY ARE LOCATED AT ACTUAL HIGH POINTS.
K. THIS SYSTEM UTILIZES NON-POTABLE WATER. ALL EQUIPMENT AND PIPING SHALL FOLLOW CODE REQUIREMENTS FOR INDICATING NON-POTABLE WATER INCLUDING: PURPLE STRIPING IN HDPE MAINLINE, PURPLE PVC PIPE, PURPLE VALVE STEMS, PURPLE AIR-RELEASE VALVE COVER, PURPLE QUICK-COUPLER CAPS, PURPLE CAPS ON HEADS, AND PURPLE BUBBLERS.
L. CONTRACTOR SHALL INSTALL VALVE ID TAG ON VALVE BOX LID INDICATING VALVE NUMBER.
M. CONTRACTOR SHALL INSTALL RAIN BIRD 14GA 'MAXI-CABLE' DOUBLE-JACKETED TWO-WIRE CABLE (CONTROL CABLE)FOR ALL WIRING BETWEEN CONTROLLER AND FIELD DECODERS AT VALVES AND BETWEEN CONTROLLER AND SENSOR DECODERS AT FLOW SENSORS. WATERPROOF WIRE CONNECTORS SHALL BE PER SPECIFICATIONS.
N. CONTRACTOR SHALL INSTALL RAIN BIRD 'FD-TURF' SERIES TWO-WIRE DECODERS AT MASTER VALVE AND ALL AUTOMATIC VALVES. TWO, FOUR, AND SIX-SOLENOID DECODERS ARE ACCEPTABLE FOR USE WHEN VALVES ARE LOCATED IN CLUSTERS AND WHERE THE PROXIMITY BETWEEN VALVES IS SUPPORTED BY THE DECODER WIRES. INSTALL DECODERS PER MANUFACTURER'S SPECIFICATIONS. WHERE MULTI-SOLENOID DECODERS ARE USED AT VALVE CLUSTERS, CONTRACTOR SHALL INSTALL TWO-WIRE CABLE IN FLEXIBLE CONDUIT BETWEEN VALVE BOXES.
O. CONTRACTOR SHALL INSTALL RAIN BIRD 'SD210TURF' SENSOR DECODER AT FLOW SENSOR TO COMMUNICATE WITH CONTROLLER.
P. CONTRACTOR SHALL INSTALL RAIN BIRD 'LSP1TURF' LINE SURGE PROTECTORS ON TWO-WIRE CABLE EVERY 500 FEET OR EVERY EIGHT DECODERS, WHICHEVER IS SMALLER. LOCATE SURGE PROTECTOR IN THE NEAREST VALVE BOX. ALTERNATELY, RAIN BIRD 'FD-401TURF' AND 'FD-601TURF' DECODERS WITH BUILT IN SURGE PROTECTION CAN DOUBLE AS VALVE DECODER AND SURGE PROTECTION. INSTALL DECODERS SURGE PROTECTION PER THE MANUFACTURER'S SPECIFICATIONS.
Q. CONTRACTOR SHALL PROVIDE ONE (1) RAINBIRD DPU-210 DECODER PROGRAMMING UNIT TO OWNER AT COMPLETION OF PROJECT.
R. CONTRACTOR SHALL PROVIDE DECODER CABLE FUSE DEVICES (DCFD) WHERE TWO-WIRE CABLE SPLITS IN DIFFERENT DIRECTIONS AND AT LONG STRAIGHT RUNS OF CABLE TO ISOLATE CABLE FOR TROUBLESHOOTING.
S. PRIOR TO BEGINNING CONSTRUCTION, CONTRACTOR SHALL PROVIDE SHOP DRAWING WHICH LOCATES PATH OF TWO-WIRE DECODER CABLE, CABLE SPLITS, TYPE OF DECODERS, SURGE PROTECTION AND GROUNDING FOR REVIEW AND APPROVAL PRIOR TO CONSTRUCTION. INSTALLATION OF DECODER CABLE, DECODERS, SURGE PROTECTION GROUNDING AND REMOTE SHALL BE IN STRICT COMPLIANCE WITH THE MANUFACTURER'S INSTRUCTIONS AND RECOMMENDATIONS.
T. CONTRACTOR SHALL PROVIDE ONE (1) DECODER PROGRAMMING UNIT TO OWNER AT COMPLETION OF PROJECT.

pland COLLABORATIVE
plandcollab.com 505.268.2266

CONSULTANTS

STATE OF NEW MEXICO GREGORY MILLER NO. 17 REGISTERED LANDSCAPE ARCHITECT 10/1/24

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

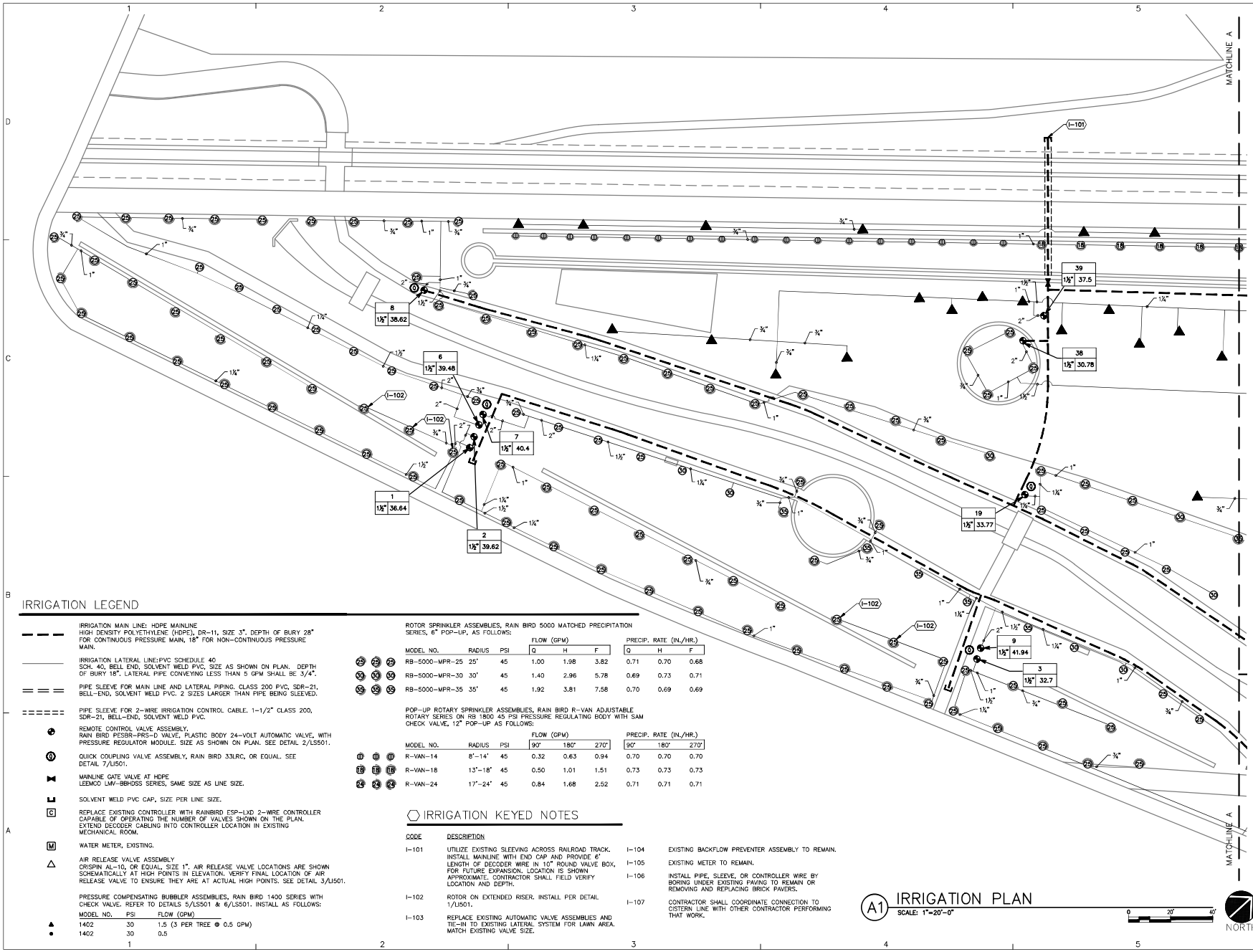
REVISIONS

NO.	DATE	DESCRIPTION

PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY:GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE
IRRIGATION OVERALL

DRAWING SHEET
LI100



IRRIGATION LEGEND

IRRIGATION MAIN LINE: HDPE MAINLINE
HIGH DENSITY POLYETHYLENE (HDPE), DR-11, SIZE 3". DEPTH OF BURY 28" FOR CONTINUOUS PRESSURE MAIN, 18" FOR NON-CONTINUOUS PRESSURE MAIN.

IRRIGATION LATERAL LINE:PVC SCHEDULE 40
SCH. 40, BELL END, SOLVENT WELD PVC, SIZE AS SHOWN ON PLAN. DEPTH OF BURY 18". LATERAL PIPE CONVEYING LESS THAN 5 GPM SHALL BE 3/4".

PIPE SLEEVE FOR MAIN LINE AND LATERAL PIPING. CLASS 200 PVC, SDR-21, BELL-END, SOLVENT WELD PVC. 2 SIZES LARGER THAN PIPE BEING SLEEVED.

PIPE SLEEVE FOR 2-WIRE IRRIGATION CONTROL CABLE. 1-1/2" CLASS 200, SDR-21, BELL-END, SOLVENT WELD PVC.

REMOTE CONTROL VALVE ASSEMBLY.
RAIN BIRD PESBR-PRS-D VALVE, PLASTIC BODY 24-VOLT AUTOMATIC VALVE, WITH PRESSURE REGULATOR MODULE. SIZE AS SHOWN ON PLAN. SEE DETAIL 2/LS501.

QUICK COUPLING VALVE ASSEMBLY, RAIN BIRD 33LRC, OR EQUAL. SEE DETAIL 7/LI501.

MAINLINE GATE VALVE AT HDPE
LEEMCO LWV-BBHDSS SERIES, SAME SIZE AS LINE SIZE.

SOLVENT WELD PVC CAP, SIZE PER LINE SIZE.

C — REPLACE EXISTING CONTROLLER WITH RAINBIRD ESP-LXD 2-WIRE CONTROLLER CAPABLE OF OPERATING THE NUMBER OF VALVES SHOWN ON THE PLAN. EXTEND DECODER CABLING INTO CONTROLLER LOCATION IN EXISTING MECHANICAL ROOM.

M — WATER METER, EXISTING.

AIR RELEASE VALVE ASSEMBLY
CRISPIN AL-10, OR EQUAL, SIZE 1". AIR RELEASE VALVE LOCATIONS ARE SHOWN SCHEMATICALLY AT HIGH POINTS IN ELEVATION. VERIFY FINAL LOCATION OF AIR RELEASE VALVE TO ENSURE THEY ARE AT ACTUAL HIGH POINTS. SEE DETAIL 3/LI501.

PRESSURE COMPENSATING BUBBLER ASSEMBLIES, RAIN BIRD 1400 SERIES WITH CHECK VALVE. REFER TO DETAILS 5/LS501 & 6/LS501. INSTALL AS FOLLOWS:

	MODEL NO.	PSI	FLOW (GPM)
▲	1402	30	1.5 (3 PER TREE @ 0.5 GPM)
●	1402	30	0.5

ROTOR SPRINKLER ASSEMBLIES, RAIN BIRD 5000 MATCHED PRECIPITATION SERIES, 6" POP-UP, AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) Q	H	F	PRECIP. RATE (IN./HR.) Q	H	F
25 25 25	RB-5000-MPR-25	25'	45	1.00	1.98	3.82	0.71	0.70	0.68
30 30 30	RB-5000-MPR-30	30'	45	1.40	2.96	5.78	0.69	0.73	0.71
35 35 35	RB-5000-MPR-35	35'	45	1.92	3.81	7.58	0.70	0.69	0.69

POP-UP ROTARY SPRINKLER ASSEMBLIES, RAIN BIRD R-VAN ADJUSTABLE ROTARY SERIES ON RB 1800 45 PSI PRESSURE REGULATING BODY WITH SAM CHECK VALVE, 12" POP-UP AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) 90°	180°	270°	PRECIP. RATE (IN./HR.) 90°	180°	270°
01 01 01	R-VAN-14	8'-14'	45	0.32	0.63	0.94	0.70	0.70	0.70
18 18 18	R-VAN-18	13'-18'	45	0.50	1.01	1.51	0.73	0.73	0.73
24 24 24	R-VAN-24	17'-24'	45	0.84	1.68	2.52	0.71	0.71	0.71

IRRIGATION KEYED NOTES

CODE	DESCRIPTION
I-101	UTILIZE EXISTING SLEEVING ACROSS RAILROAD TRACK. INSTALL MAINLINE WITH END CAP AND PROVIDE 6' LENGTH OF DECODER WIRE IN 10" ROUND VALVE BOX, FOR FUTURE EXPANSION. LOCATION IS SHOWN APPROXIMATE. CONTRACTOR SHALL FIELD VERIFY LOCATION AND DEPTH.
I-102	ROTOR ON EXTENDED RISER. INSTALL PER DETAIL 1/LI501.
I-103	REPLACE EXISTING AUTOMATIC VALVE ASSEMBLIES AND TIE-IN TO EXISTING LATERAL SYSTEM FOR LAWN AREA. MATCH EXISTING VALVE SIZE.
I-104	EXISTING BACKFLOW PREVENTER ASSEMBLY TO REMAIN.
I-105	EXISTING METER TO REMAIN.
I-106	INSTALL PIPE, SLEEVE, OR CONTROLLER WIRE BY BORING UNDER EXISTING PAVING TO REMAIN OR REMOVING AND REPLACING BRICK PAVERS.
I-107	CONTRACTOR SHALL COORDINATE CONNECTION TO CISTERN LINE WITH OTHER CONTRACTOR PERFORMING THAT WORK.

A1 IRRIGATION PLAN
SCALE: 1"=20'-0"

0 20' 40'

NORTH

pland COLLABORATIVE
plandcollab.com 505.268.2266

CONSULTANTS

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

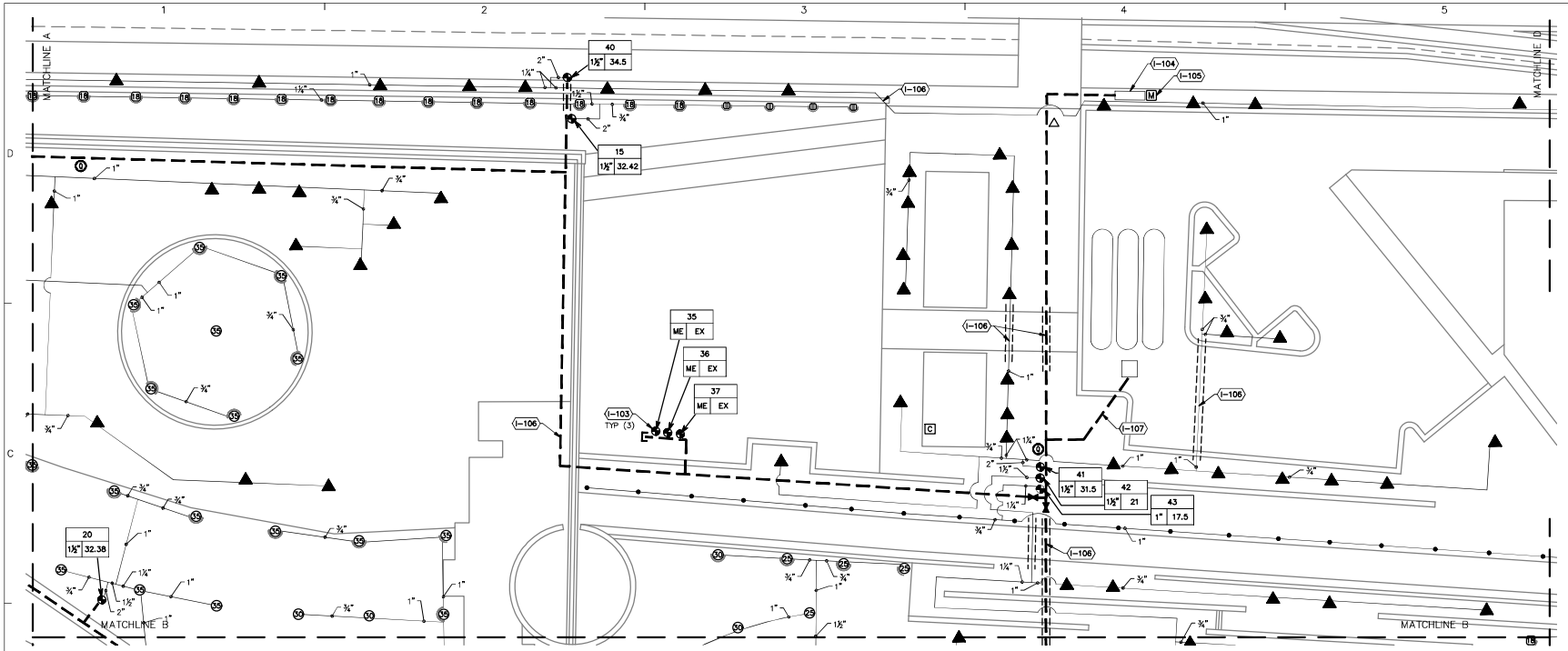
REVISIONS

NO.	DATE	DESCRIPTION

PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY:GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE
IRRIGATION PLAN

DRAWING SHEET
LI101

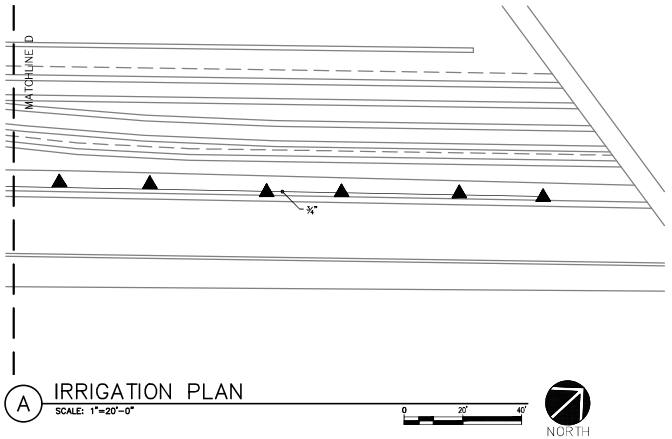


B IRRIGATION PLAN

SCALE: 1"=20'-0"

0 20' 40'

NORTH



A IRRIGATION PLAN

SCALE: 1"=20'-0"

0 20' 40'

NORTH

IRRIGATION LEGEND

IRRIGATION MAIN LINE: HDPE MAINLINE
HIGH DENSITY POLYETHYLENE (HDPE), DR-11, SIZE 3". DEPTH OF BURY 28" FOR CONTINUOUS PRESSURE MAIN, 18" FOR NON-CONTINUOUS PRESSURE MAIN.

IRRIGATION LATERAL LINE:PVC SCHEDULE 40
SCH. 40, BELL END, SOLVENT WELD PVC, SIZE AS SHOWN ON PLAN. DEPTH OF BURY 18". LATERAL PIPE CONVEYING LESS THAN 5 GPM SHALL BE 3/4".

PIPE SLEEVE FOR MAIN LINE AND LATERAL PIPING, CLASS 200 PVC, SDR-21, BELL-END, SOLVENT WELD PVC. 2 SIZES LARGER THAN PIPE BEING SLEEVED.

PIPE SLEEVE FOR 2-WIRE IRRIGATION CONTROL CABLE. 1-1/2" CLASS 200, SDR-21, BELL-END, SOLVENT WELD PVC.

REMOTE CONTROL VALVE ASSEMBLY.
RAIN BIRD PESBR-PRS-D VALVE, PLASTIC BODY 24-VOLT AUTOMATIC VALVE, WITH PRESSURE REGULATOR MODULE. SIZE AS SHOWN ON PLAN. SEE DETAIL 2/LS501.

QUICK COUPLING VALVE ASSEMBLY, RAIN BIRD 33LRC, OR EQUAL. SEE DETAIL 7/LI501.

MAINLINE GATE VALVE AT HDPE
LEEMCO LMV-BBHDSS SERIES, SAME SIZE AS LINE SIZE.

SOLVENT WELD PVC CAP, SIZE PER LINE SIZE.

C REPLACE EXISTING CONTROLLER WITH RAINBIRD ESP-LXD 2-WIRE CONTROLLER CAPABLE OF OPERATING THE NUMBER OF VALVES SHOWN ON THE PLAN. EXTEND DECODER CABLING INTO CONTROLLER LOCATION IN EXISTING MECHANICAL ROOM.

M WATER METER, EXISTING.

AIR RELEASE VALVE ASSEMBLY
CRISPIN AL-10, OR EQUAL, SIZE 1". AIR RELEASE VALVE LOCATIONS ARE SHOWN SCHEMATICALLY AT HIGH POINTS IN ELEVATION. VERIFY FINAL LOCATION OF AIR RELEASE VALVE TO ENSURE THEY ARE AT ACTUAL HIGH POINTS. SEE DETAIL 3/LI50

PRESSURE COMPENSATING BUBBLER ASSEMBLIES, RAIN BIRD 1400 SERIES WITH CHECK VALVE. REFER TO DETAILS 5/LS501 & 6/LS501. INSTALL AS FOLLOWS:

	MODEL NO.	PSI	FLOW (GPM)
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ROTOR SPRINKLER ASSEMBLIES, RAIN BIRD 5000 MATCHED PRECIPITATION SERIES, 6" POP-UP, AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) Q	H	F	PRECIP. RATE (IN./HR.) Q	H	F
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35 35 35	RB-5000-MPR-35	35'	45	1.92	3.81	7.58	0.70	0.69	0.69

POP-UP ROTARY SPRINKLER ASSEMBLIES, RAIN BIRD R-VAN ADJUSTABLE ROTARY SERIES ON RB 1800 45 PSI PRESSURE REGULATING BODY WITH SAM CHECK VALVE, 12" POP-UP AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) 90°	180°	270°	PRECIP. RATE (IN./HR.) 90°	180°	270°
14 14 14	R-VAN-14	8'-14'	45	0.32	0.63	0.94	0.70	0.70	0.70
18 18 18	R-VAN-18	13'-18'	45	0.50	1.01	1.51	0.73	0.73	0.73
24 24 24	R-VAN-24	17'-24'	45	0.84	1.68	2.52	0.71	0.71	0.71

⬡ IRRIGATION KEYED NOTES

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CONSULTANTS

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

REVISIONS

NO.	DATE	DESCRIPTION

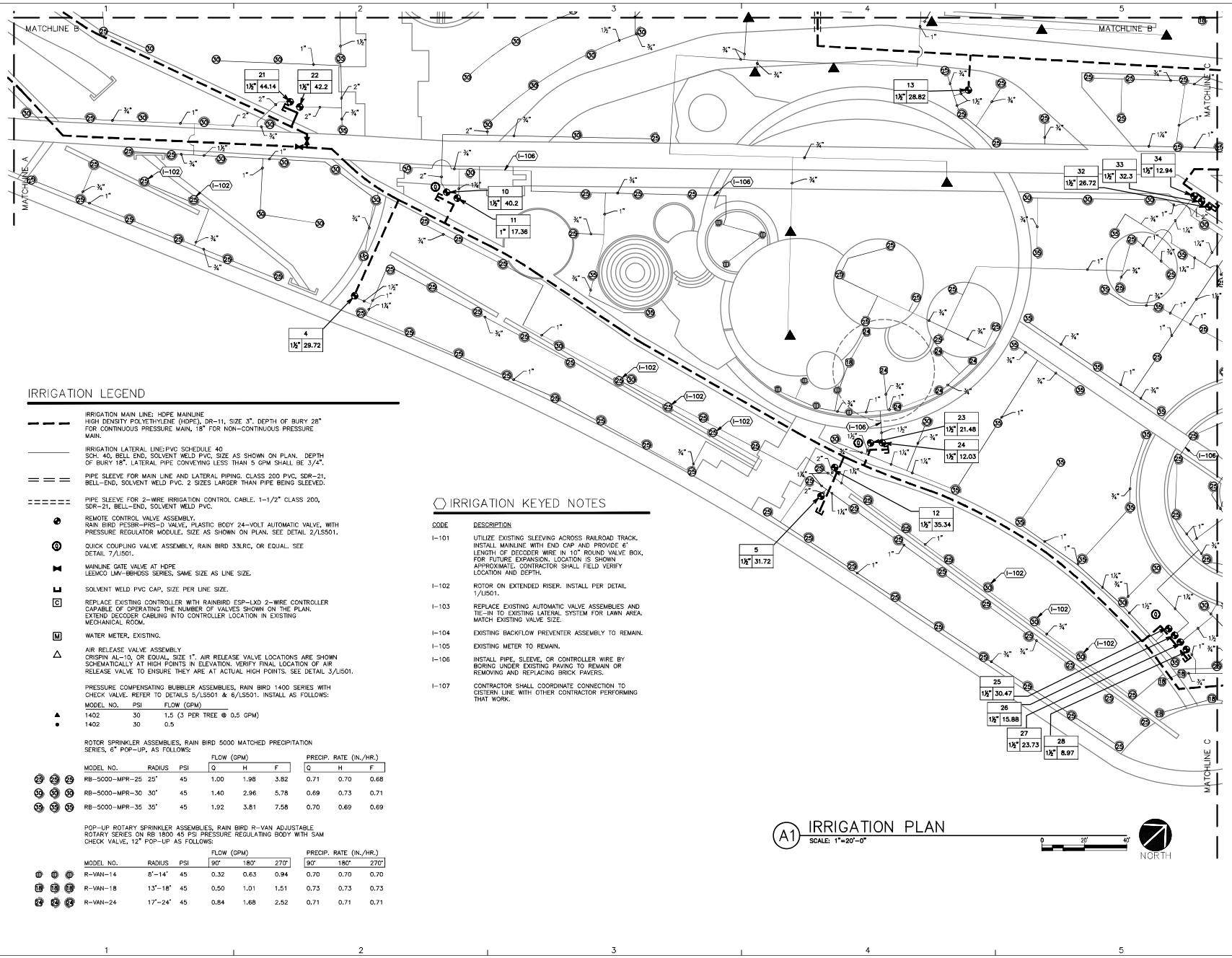
PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY:GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE

IRRIGATION PLAN

DRAWING SHEET

LI102



IRRIGATION LEGEND

- IRRIGATION MAIN LINE: HDPE MAINLINE HIGH DENSITY POLYETHYLENE (HDPE), DR-11, SIZE 3". DEPTH OF BURY 28" FOR CONTINUOUS PRESSURE MAIN, 18" FOR NON-CONTINUOUS PRESSURE MAIN.
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- PIPE SLEEVE FOR 2-WIRE IRRIGATION CONTROL CABLE. 1-1/2" CLASS 200, SDR-21, BELL-END, SOLVENT WELD PVC.
- REMOTE CONTROL VALVE ASSEMBLY. RAIN BIRD PESBR-PRS-D VALVE, PLASTIC BODY 24-VOLT AUTOMATIC VALVE, WITH PRESSURE REGULATOR MODULE. SIZE AS SHOWN ON PLAN. SEE DETAIL 2/LS501.
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- MAINLINE GATE VALVE AT HDPE LEEMCO LMV-BBHDSS SERIES, SAME SIZE AS LINE SIZE.
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PRESSURE COMPENSATING BUBBLER ASSEMBLIES, RAIN BIRD 1400 SERIES WITH CHECK VALVE. REFER TO DETAILS 5/LS501 & 6/LS501. INSTALL AS FOLLOWS:

	MODEL NO.	PSI	FLOW (GPM)
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POP-UP ROTARY SPRINKLER ASSEMBLIES, RAIN BIRD R-VAN ADJUSTABLE ROTARY SERIES ON RB 1800 45 PSI PRESSURE REGULATING BODY WITH SAM CHECK VALVE, 12" POP-UP AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) 90°	180°	270°	PRECIP. RATE (IN./HR.) 90°	180°	270°
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18 18 18	R-VAN-18	13'-18'	45	0.50	1.01	1.51	0.73	0.73	0.73
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IRRIGATION KEYED NOTES

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A1 IRRIGATION PLAN
SCALE: 1"=20'-0"

0 20' 40'

NORTH

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CONSULTANTS

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

REVISIONS

NO.	DATE	DESCRIPTION

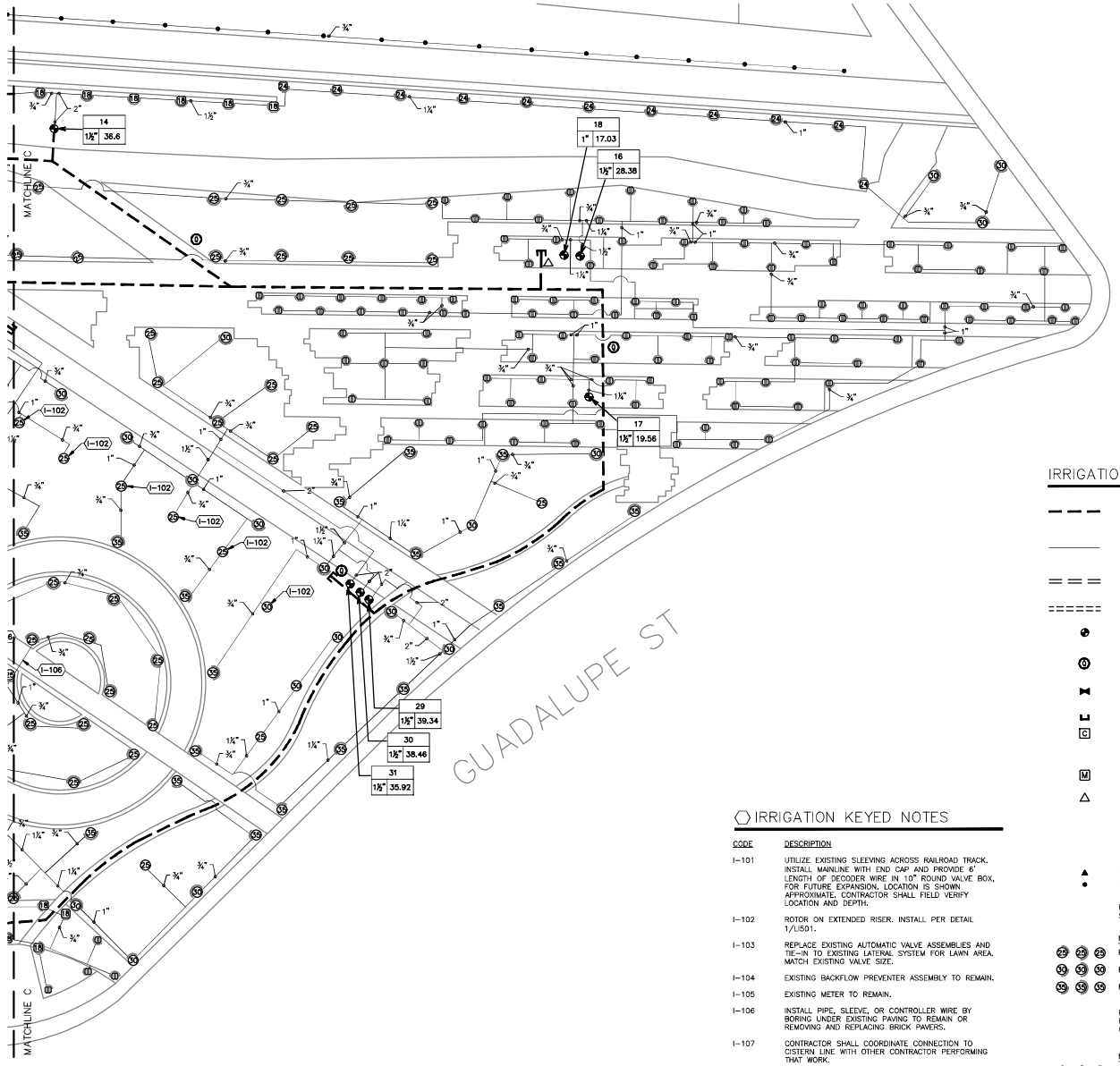
PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY:GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE

IRRIGATION PLAN

DRAWING SHEET

LI103



A1 IRRIGATION PLAN
SCALE: 1"=20'-0"

NORTH

IRRIGATION KEYED NOTES

CODE	DESCRIPTION
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PRESSURE COMPENSATING BUBBLER ASSEMBLIES, RAIN BIRD 1400 SERIES WITH CHECK VALVE. REFER TO DETAILS 5/LS501 & 6/LS501. INSTALL AS FOLLOWS:

	MODEL NO.	PSI	FLOW (GPM)
▲	1402	30	1.5 (3 PER TREE @ 0.5 GPM)
●	1402	30	0.5

ROTOR SPRINKLER ASSEMBLIES, RAIN BIRD 5000 MATCHED PRECIPITATION SERIES, 6" POP-UP, AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) Q	H	F	PRECIP. RATE (IN./HR.) Q	H	F
25 25 25	RB-5000-MPR-25	25'	45	1.00	1.98	3.82	0.71	0.70	0.68
30 30 30	RB-5000-MPR-30	30'	45	1.40	2.96	5.78	0.69	0.73	0.71
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POP-UP ROTARY SPRINKLER ASSEMBLIES, RAIN BIRD R-VAN ADJUSTABLE ROTARY SERIES ON RB 1800 45 PSI PRESSURE REGULATING BODY WITH SAM CHECK VALVE, 12" POP-UP AS FOLLOWS:

	MODEL NO.	RADIUS	PSI	FLOW (GPM) 90°	180°	270°	PRECIP. RATE (IN./HR.) 90°	180°	270°
0 0 0	R-VAN-14	8'-14'	45	0.32	0.63	0.94	0.70	0.70	0.70
18 18 18	R-VAN-18	13'-18'	45	0.50	1.01	1.51	0.73	0.73	0.73
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SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

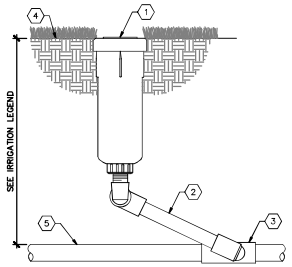
REVISIONS

NO.	DATE	DESCRIPTION

PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY: GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE
IRRIGATION PLAN

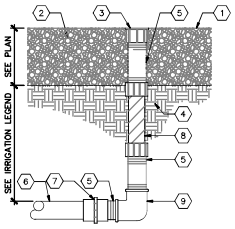
DRAWING SHEET
LI104



KEYED NOTES

1. SPRINKLER BODY – SEE IRRIGATION LEGEND
2. UNITIZED SWING JOINT, SAME SIZE AS HEAD'S INLET SIZE
3. PVC LATERAL PIPE FITTING
4. FINISH GRADE
5. LATERAL PIPING

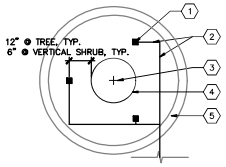
4 SPRINKLER ASSEMBLY
NOT TO SCALE



KEYED NOTES

1. FINISH GRADE
2. MULCH
3. PRESSURE COMPENSATING BUBBLER – SEE IRRIGATION LEGEND, TOP OF BUBBLER SHALL BE FLUSH WITH TOP OF MULCH
4. COMPACTED SUBGRADE
5. 1/2" SCH. 80 PVC THREADED NIPPLE, LENGTH AS REQUIRED
6. 3/4" LATERAL PIPING
7. 3/4" X 1/2" SCH. 40 PVC FEMALE ADAPTER
8. 1/2" X 6" FLEX NIPPLE
9. 1/2" SCH. 40 PVC THREADED ELBOW

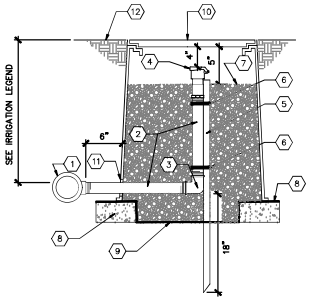
5 BUBBLER ASSEMBLY
NOT TO SCALE



KEYED NOTES

1. BUBBLER ASSEMBLY – SEE IRRIGATION LEGEND. INSTALL PER DETAIL C4/LI501.
2. 3/4" LATERAL PIPING
3. CENTER OF TREE
4. EDGE OF ROOT BALL
5. EARTHEN BERM – SEE PLANTING DETAILS

6 THREE–BUBBLER LAYOUT
NOT TO SCALE



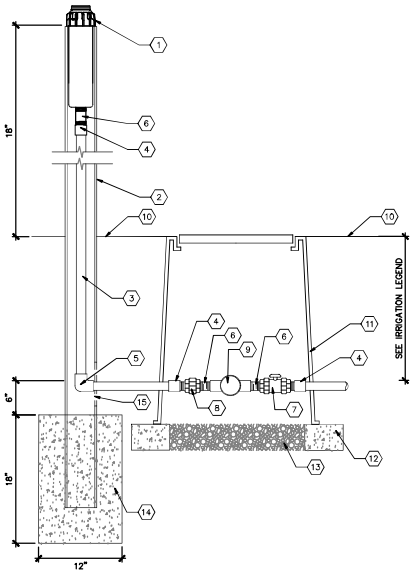
KEYED NOTES

1. SERVICE TEE AT MAINLINE
2. 1" SCH. 80 PVC NIPPLE, LENGTH AS REQUIRED
3. 1" SCH. 80 PVC THREADED ELBOW
4. QUICK COUPLER VALVE – SEE IRRIGATION LEGEND
5. 2" STEEL ANGLE IRON SUPPORT STAKE
6. STAINLESS STEEL PIPE CLAMP
7. 1" DIAMETER WASHED GRAVEL
8. SOLID CMU BLOCK, TWO PER BOX
9. FILTER FABRIC
10. 10" ROUND HEAVY-DUTY VALVE BOX WITH BOLT DOWN DROP-IN COVER AND EXTENSIONS AS REQUIRED
11. NOTCH OR CORE DRILL VALVE BOX WALL, 1/2" LARGER THAN PIPE DIAMETER
12. FINISH GRADE

GENERAL NOTES

A. PROVIDE 4" MINIMUM CLEARANCE BETWEEN VALVE BOX LID AND HIGHEST OBJECT IN BOX.
B. PROVIDE ONE (1) VALVE KEY AND ONE (1) LOCKING COVER KEY TO THE OWNER, PER QUICK COUPLER.

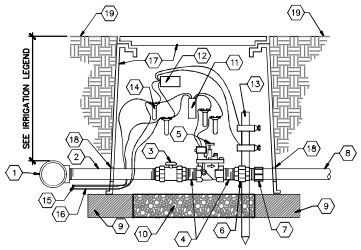
7 QUICK COUPLER VALVE
NOT TO SCALE



KEYED NOTES

1. SPRINKLER BODY, SEE IRRIGATION LEGEND.
2. 2-1/2" DIAMETER GALVANIZED STEEL PIPE
3. 3/4" SCH. 40 PVC
4. 3/4" SOLVENT WELD TO THREAD COUPLING
5. 3/4" SOLVENT WELD ELBOW
6. 3/4" SCH. 80 NIPPLE
7. SPEARS TRUE UNION BALL VALVE
8. SPEARS UNION
9. KING DRAIN
10. FINISH GRADE
11. CARSON 1419 VALVE BOX W/ BOLT DOWN FLUSH COVER AND EXTENSIONS, AS REQUIRED
12. SOLID CMU BLOCK – FOUR PER BOX
13. 6" DEPTH OF 1" CRUSHED GRAVEL
14. 3000 PSI CONCRETE FOOTING
15. 4"X2" OPENING IN STEEL PIPE

1 ROTOR ON EXTENDED RISER
NOT TO SCALE



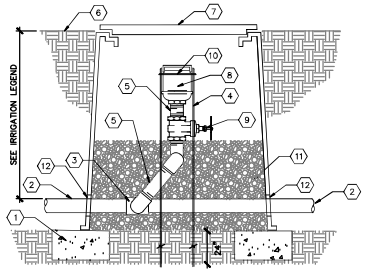
KEYED NOTES

1. SERVICE TEE AT MAINLINE
2. SCH. 80 PVC NIPPLE, LENGTH AS REQUIRED
3. SCH. 80 PVC BALL VALVE WITH UNIONS
4. SCH. 80 PVC NIPPLE, 3" LENGTH
5. REMOTE CONTROL VALVE – SEE IRRIGATION LEGEND
6. SPEARS SCH. 80 PVC UNION
7. SCH. 40 PVC MALE ADAPTER
8. LATERAL PIPING
9. SOLID CMU BLOCK, FOUR PER BOX
10. 6" DEPTH OF 1" DIAMETER WASHED GRAVEL WITH MIN. 2" CLEARANCE FROM BOTTOM OF EQUIPMENT AND PIPING
11. FIELD DECODER
12. IN-LINE SURGE PROTECTOR, AS REQUIRED BY MANUFACTURER
13. GROUNDING ROD: 10 OHMS OR LESS AT LOCATION, AS REQUIRED BY MANUFACTURER
14. WATERPROOF WIRE CONNECTOR
15. DECODER CABLE FROM PREVIOUS DEVICE
16. DECODER CABLE TO NEXT DEVICE
17. 17" X 30" HEAVY-DUTY VALVE BOX WITH T-STYLE BOLT-DOWN COVER AND EXTENSIONS AS REQUIRED
18. NOTCH OR CORE DRILL VALVE BOX WALL, 1/2" LARGER THAN PIPE DIAMETER
19. FINISH GRADE

GENERAL NOTES

A. CONTRACTOR SHALL INSTALL ONE AUTOMATIC VALVE ASSEMBLY PER VALVE BOX.

2 REMOTE CONTROL VALVE ASSEMBLY – TWO–WIRE
NOT TO SCALE



KEYED NOTES

1. SOLID CMU BLOCK, FOUR PER BOX
2. PVC MAIN LINE
3. SCH. 40 PVC TEE
4. 1/2" DIAMETER REBAR
5. PRE–FABRICATED SCH. 40 PVC SWING JOINT – SAME SIZE AS VALVE
6. FINISH GRADE
7. 17" X 30" HEAVY–DUTY VALVE BOX WITH BOLT–DOWN T–STYLE COVER AND EXTENSIONS AS REQUIRED
8. AIR RELEASE VALVE – SEE IRRIGATION LEGEND
9. BRONZE GATE VALVE WITH HAND WHEEL
10. BAILING WIRE SECURED TO REBAR AT MIDDLE OF AIR RELEASE VALVE
11. 1" DIAMETER WASHED GRAVEL
12. NOTCH OR CORE DRILL VALVE BOX WALL 1/2" LARGER THAN PIPE

GENERAL NOTES

A. WASHED GRAVEL SHALL BE INSTALLED FLUSH WITH BOTTOM OF GATE VALVE.

3 AIR RELIEF VALVE
NOT TO SCALE

pland COLLABORATIVE
plandcollab.com 505.268.2266

CONSULTANTS

STATE OF NEW MEXICO
GREGORY MILLER
NO. 17
REGISTERED LANDSCAPE ARCHITECT
10/1/24

SANTA FE RAILYARD PARK IRRIGATION RENOVATION PLAN

OCTOBER 1, 2024

SUBMITTAL: 100% FOR CONSTRUCTION

REVISIONS

NO.	DATE	DESCRIPTION

PROJECT NO: 22075
CAD DWG FILE:
DESIGNED BY:GM/MNW
DRAWN BY: MNW
CHECKED BY: GM

SHEET TITLE

IRRIGATION DETAILS

DRAWING SHEET

LI501

Signature: *Melissa McDonald*

Email: mamcdonald@santafenm.gov

DocuSign Envelope ID: E0965E63-FD60-4B81-BBBF-84A0AA01ADE1

State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor: **5 Vendors**

Number: **30-00000-23-00091**

Amendment No.: **One**

Term: **July 21, 2023 – July 20, 2025**

Ship To: **All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.**
Invoice: **As Requested at Time of Order**

Procurement Specialist: **Clarke J. Fountain**

Telephone No.: **(505) 629-2964**

Email: **ClarkeJ.Fountain@gsd.nm.gov**

Title: **Landscaping Statewide**

This amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 21, 2024 to July 20, 2025 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

Natalie Martinez

Date: 6/10/2024

Dorothy Mendonca
New Mexico State Purchasing Agent

x **This Agreement was signed on behalf of the State Purchasing Agent**

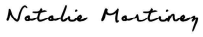
DocuSign

Certificate Of Completion

Envelope Id: E0965E63FD604B81BBBF84A0AA01ADE1
Status: Completed
Subject: DocuSign: 30-00000-23-00091 Landscaping A001
Source Envelope:
Document Pages: 1
Signatures: 1
Envelope Originator:
Certificate Pages: 2
Initials: 2
Clarke Fountain
AutoNav: Enabled
1100 S Saint Francis Dr
EnvelopeId Stamping: Enabled
Santa Fe, NM 87502
Time Zone: (UTC-07:00) Mountain Time (US & Canada)
ClarkeJ.Fountain@gsd.nm.gov
IP Address: 164.64.62.10

Record Tracking

Status: Original
6/10/2024 10:06:28 AM
Holder: Clarke Fountain
ClarkeJ.Fountain@gsd.nm.gov
Location: DocuSign
Security Appliance Status: Connected
Pool: StateLocal
Storage Appliance Status: Connected
Pool: GSD
Location: DocuSign

Signer Events	Signature	Timestamp
Tami Concha tami.concha@gsd.nm.gov Const. Supervisor New Mexico General Services, State Purchasing Division Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 6/10/2024 10:08:32 AM Viewed: 6/10/2024 10:17:53 AM Signed: 6/10/2024 10:18:05 AM
Clarke Fountain clarkej.fountain@gsd.nm.gov Procurement Specialist New Mexico General Services Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 6/10/2024 10:18:06 AM Viewed: 6/10/2024 10:38:19 AM Signed: 6/10/2024 10:38:29 AM
Natalie Martinez natalie.martinez1@gsd.nm.gov Deputy Director New Mexico General Services Signing Group: 35000 - State Purchasing Agent Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 6/10/2024 10:38:30 AM Viewed: 6/10/2024 12:17:42 PM Signed: 6/10/2024 12:22:54 PM

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	6/10/2024 10:08:32 AM
Certified Delivered	Security Checked	6/10/2024 12:17:42 PM
Signing Complete	Security Checked	6/10/2024 12:22:54 PM
Completed	Security Checked	6/10/2024 12:22:54 PM

Payment Events	Status	Timestamps

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State of New Mexico
General Services Department

Statewide Price Agreement

Awarded Vendor:
5 Vendors

Price Agreement Number: **30-00000-23-00091**

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: **James Ortega**

Telephone No.: **(505) 795-2516**

Email: **James.Ortega@gsd.nm.gov**

Invoice:
As Requested at Time of Order

Title: **Landscaping Statewide**

Term: **July 21, 2023 thru July 20, 2024**

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

Accepted for the State of New Mexico

Dorothy Mendonca

Date: 7/21/2023

Dorothy Mendonca
New Mexico State Purchasing Agent

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Terms and Conditions

(Unless otherwise specified)

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

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

3. **Assignment:**

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

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

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

5. **Discounts:** Prompt payment discounts will not be considered in computing the low bid.

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

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

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

9. **Taxes:** The unit price shall exclude all state taxes.

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

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

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

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

11. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of

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subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

12. **Non-Collusion:** In signing this bid the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or his/her designee.

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

14. **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.

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

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

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

18. **Submission of Bid:** Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope. Failure to label bid envelope will necessitate the premature opening of the bid in order to identify the bid number.

19. **Contractor Personnel**: Personnel proposed in the Contractor's written bid to the Procuring Agency are considered material to any work performed under this Price Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

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

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

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

New Mexico Employees Health Coverage

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average

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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 its New Mexico Employees and offer that health insurance to its New Mexico Employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceeds $250,000 dollars.

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

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

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

(1) "New Mexico Employee" means any resident of the State of New Mexico employed by Contractor who performs the majority of the employee's work for Contractor within the State of New Mexico, regardless of the location of Contractor's office or offices; and

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

Statewide Price Agreement

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

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

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

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

Article IV – Shipping and Billing Instructions
Contractor shall ship in accordance with the following instructions: Shipment shall be made only against specific orders which the user may place with the Contractor during the term; The Contractor shall enclose a packing list with each shipment listing the order number, price agreement number and the commercial parts number (if any) for each item; Delivery shall be made as indicated on page1. If vendor is unable to meet stated delivery the State Purchasing Agent or his/her designee must be notified.

Article V – Termination
The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement. 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

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

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

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

It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/ or personal injury(s) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.
Vendor shall provide all insurance necessary to employees on the work site, including but not limited to Worker's Compensation.

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

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

Article X – Price Schedule
Prices as listed in the price schedule hereto attached are firm.

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Awarded Vendors:

(AA) 0000051213

Accent Landscape Contractor's
PO BOX 30983
Albuquerque, NM 87190
(505) 881-4880
admin1@accentnm.com

Payment Term:	Net 30
FOB:	Destination
Delivery:	5919 Edith Blvd NE Albuquerque, NM 87107

(AB) 0000174693

Charly Landscaping LLC
2637 Redwood Street
Santa Fe, NM 87505
(505) 780-9593
charlylandscapingllc@gmail.com

Payment Term:	Net 30
FOB:	Destination
Delivery:	Destination

(AC) 0000174716

Saucedos Janitorial Service
3321 Box Canyon
Gallup NM 87301
(505) 879-3967
levisaucedo@gmail.com

Payment Term:	30
FOB:	Destination
Delivery:	upon contract

(AD) 0000106658

Steamer Inc
dba Proscape Landscape Management
1850 Old Pecos Trail Ste J
Santa Fe, NM 87505
(505) 455-9348
office@proscapenm.com

Payment Term:	net 30
FOB:	Destination
Delivery:	as requested

(AE) 0000050257
Westwind Landscape Construction, Inc.
PO Box 35969
Albuquerque, NM 87176
(505) 842-7690
patrick@westwindlandscape.com

Payment Term:	Net 30
FOB:	Destination
Delivery:	Destination

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Specifications:

The State of New Mexico, General Services Department (GSD), wishes to establish a price agreement for On-Call Grounds Landscaping and Property Maintenance Services and work related to these areas. This Price Agreement may be utilized by all New Mexico State Agencies, commissions, political subdivisions and local public bodies applicable by law.

Vendor shall furnish all labor, tools, specialized equipment, material, supplies, supervision and transportation to perform landscape maintenance and grounds services as specifically outlined in this bid.

Term:
The term of this agreement shall be for one (1) year from date of award with the option to extend for a period (s) of seven (7) additional years, on a year-by-year basis, by mutual agreement of all parties and approval of the New Mexico state purchasing director at the same price, terms and conditions. This Price Agreement may not exceed eight (8) years in total.

Payment Provisions:
Contractor shall submit invoices or pay requests at regular intervals but not less than once a month. Pay requests will be based on Lump Sum Fixed Price and percent of project completion. If there are anticipated to be more than several pay applications for the project, then a schedule of values must be submitted and approved after the Notice to Proceed is issued. Within fifteen (15) days after the date the Department receives written notice from the Contractor that payment is requested for services, construction or items of tangible personal property delivered on site and received, the Department shall issue a written certification of complete or partial acceptance or rejection of the services, construction, or items of tangible personal property. If the Department finds that the services, construction, or items of tangible personal property are not acceptable, it shall, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, provide to the Contractor, a letter of exception explaining the defect or objection to the services, construction, or delivered tangible personal property along with the details of how the Contractor may proceed to provide remedial action.

Upon certification by the Department that the services, construction, or delivered tangible personal property have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth (30th) 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 one and one half percent (1-1/2%) per month. For purchases funded by state or federal grants to local public bodies, if the local public body has not received the funds from the federal or state funding agency, but has already certified that the services or items of tangible personal property have been received and accepted, payments shall be tendered to the Contractor within five (5) working days of receipt of funds from that funding agency.

Final payment shall be made within thirty (30) days after the work has been approved and accepted by the Department's Secretary or his duly authorized representative.

The Contractor agrees to comply with state laws and rules pertaining to Worker's Compensation Insurance coverage for its employees. If Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so, the Price Agreement may be cancelled effective immediately.

Tax Note:
Price shall not include state gross receipts tax or local option tax. Such tax or taxes shall be added at time of invoicing at current rate, and shown as a separate item to be paid by user at the current tax rate at the project's location.

Note To Bidders: Do not include New Mexico gross receipts tax in your pricing on this invitation to bid.

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Bidding Information:
The conditions and specifications set out in the invitation to bid are inseparable and indivisible. Any Vendor, by submitting a bid, agrees to be bound by all such conditions and/or specifications. All conditions and specifications in the invitation to bid, and all other documents required to be submitted, shall be submitted by the Vendor in their bid package. Failure to do so or any attempt to vary or change the conditions or specifications of the invitation to bid shall, at the discretion of the State of New Mexico, constitute grounds for rejection of the entire bid.

The prices quoted herein represent the total compensation to be paid by the State of New Mexico for goods and/or services provided. It is understood that the vendor providing said goods and/or services to the State of New Mexico is responsible for payment of all costs of labor, equipment, tools, materials, federal taxes, permits, licenses, fees, and any other items necessary to complete the work provided. The prices provided or quoted in this price agreement include an amount sufficient to cover such costs.

Minimum Requirements:

General Scope of Work for Landscaping and Grounds Maintenance, shall include but is not limited to:

Vendor shall furnish all labor, tools, specialized equipment, material, supplies, supervision and transportation to perform landscape maintenance and grounds services as specifically outlined in this bid.

1) Mowing grass: height will be dictated by the Procuring Agency. Generally, the grass will be kept cut at a nominal groomed height suited for the location, slope of terrain, and grass condition

2) Edging of grass shall be accomplished by mechanical means to all plant beds, tree rings, buildings, sidewalks, driveways, fences, and other surfaced areas bordered by grass.

3) Weed control will be maintained within the specified areas including sidewalks, lawns, shrubs and ground cover beds, planters, and areas covered with ornamental rocks.

4) Pruning of shrubs and ground cover plants shall be done on an as needed basis to prevent encroachment of passageways, sidewalks, streets, parking areas, and signs. Pruning shall be done to encourage an informal shape, fullness, and bloom, and to keep plants in healthy growing condition.

5) Tree and palm/leave trimming shall be done to maintain trees in a healthy, growing condition and is limited to branches and/or brown fronds and seed heads. All sucker growth (chinese elms) will be removed by the root, as requested by the Procuring Agency.

6) Plants and trees will be trimmed so that they do not touch the buildings and interfere with walkways and parking areas.

7) Removal of leaves and other organic debris from parking lots, courtyards, sidewalks, and adjacent parking areas, and areas that are covered with ornamental rock, as requested by the Procuring Agency. Removal of landscaping debris and piles, as collected, shall be removed by the Contractor.

8) Fertilizing all grass or turf areas at a mixture at/or by industry standards and should be applied at/or by the nominal rate as applicable by manufacture standard or industry standards for each application.

9) Fertilizing trees at a mix rate at/or by industry standards and should be applied at/or by the nominal rate as applicable by manufacture standard or industry standards for each application.

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10) Pesticides will not be used unless plant damage is evident. Only pesticides that are considered environmentally safe will be used on the property and at the request of the Procuring Agency.

11) Mulching should be maintained at a minimum depth of 3 inches or at the request of the Procuring Agency.

12) Power washing in identified areas to various hardscape amenities or areas as directed at the request of the Procuring Agency.

13) Graffiti removal by power washing in identified areas to various hardscape amenities or areas as directed at the request of the Procuring Agency.

14) Irrigation installation in various areas as directed at the request of the Procuring Agency.

15) Emergency Irrigation repairs:
   a) Trouble shooting;
   b) Include locating source of leaks and making necessary repairs in order to eliminate leak;
   c) Repairs shall be made with the same brand, make, and model of component where the use of a different part will adversely affect the system efficiency, unless parts are obsolete; and
   d) Check and maintain irrigation systems for efficient water application reducing overspray and eliminating all runoff from leaving the planted areas.

1) Tree planting: replacement of trees, shrubs or bushes. NOTE: Tree planting shall be of the installation of various sizes of plant material, to include broadleaved or coniferous trees or other native species or as requested by the Procuring Agency. Contractor shall be responsible for notifying Underground Utility Service Alert a minimum of forty-eight (48) hours in advance to allow for proper locating of underground utilities. Contractor shall be responsible for delineation of sites for notification unless otherwise directed by Procuring Agency. All trees planted shall be planted in accordance the American National Standards Institute ANSI A300 Part 6: Tree, Shrub and Other Woody Plant Maintenance.

2) Grass planting: this shall include, sods, native grass, seeding, soil additives and top soils.

3) Gravel and decorative rock: this shall include, pea gravel, crushed decorative gravel, crushed stone, and landscape fabrics (water permeable).

4) Snow Removal (seasonal): Provide all labor, equipment and supervision necessary to provide winter month snow plowing & snow/ice removal and sanding services in the parking lots and/or adjacent roadways, to all sidewalks, driveways, and other surfaced areas bordering buildings and/or as directed at the request of the Procuring Agency.

5) Trash and Debris removal: Areas identified for debris removal is bounded by the Procuring Agency. This may include but is not limited to, parking lots, adjacent property limits which includes all public property or Right-of-Ways (ROW) areas and may include private segments within the jurisdictional boundaries of the state agencies, local public bodies and/or municipalities procuring the services. Debris removal on non-City or State or County roadways, waterways or other areas, as directed in writing by the Procuring Agency. Debris or trash removal may be as small as or in excess of one (1) bushel basket shall be removed within the designated area so as to leave a clean and appealing sight. No debris shall be left on the road surface. No single piece of debris larger than six (6) inches in any dimension shall be left onsite.

6) Artificial or Synthetic Turf grass: Must be athletic caliber synthetic turf systems with height and texture as requested by the Procuring Agency. To be used in any and all adjacent property limits which includes all public

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property or Right-of-Ways (ROW) areas and may include private segments within the jurisdictional boundaries of the state agencies, local public bodies and/or municipalities procuring the services.

a) The surface to receive the synthetic turf shall be inspected by the Installer, and prior to the beginning of installation, the Installer must accept in writing the sub-base surface planarity. The surface must be perfectly clean as installation commences and shall be maintained in that condition throughout the process.

b) Install in accordance with Procuring Agency instructions. Any variance from these requirements must be accepted in writing, by Procuring Agency and/or accepted by the Architect/Owner (if applicable), verifying that the changes do not in any way affect the warranty. Infill materials shall be approved by Procuring Agency and installed in accordance with Procuring Agency standard procedures.

c) The carpet rolls are to be installed directly over the properly prepared aggregate or acceptable asphaltic-concrete or concrete base. Extreme care should be taken to avoid disturbing the aggregate base, both in regard to compaction and planarity. It is suggested that static roller be used to repair and properly compact any disturbed areas of the aggregate base.

d) The full width rolls shall be laid out across the area. Turf shall be of sufficient length to permit full cross-field installation. No cross seams will be allowed. Utilize standard state of the art stitching or sewing procedures. Gluing of rolls shall not be acceptable. Minimum gluing will only be permitted to repair problem areas, corner completions, and to cut or inlaid lines as required by the specifications. All seams shall be sewn Procuring Agency high grade thread or adhered Procuring Agency seaming tape and high grade adhesive (per the manufacturer's standard procedures). Seams shall be flat, tight, and permanent with no separation or fraying.

e) The infill material shall be installed to a depth determined by Procuring Agency

f) The Infill materials shall be installed to fill the voids between the fibers and allow the fibers to remain vertical and non-directional. The Infill installation consists of a base layer of sand followed by a homogenous mixture of the sand and the cryogenically processed rubber. A final application of specifically sized cryogenically processed rubber completes the system. The Infill shall be installed to the depth of 75%; Infill density shall be installed per the manufacturer's standard procedures.

g) Synthetic turf shall be attached to the perimeter edge detail in accordance with the Procuring Agency standard procedures. The perimeter edge detail must be designed to provide a permanent edge attachment for the turf fabric so as to prevent the fabric from creating a tripping hazard at the edge of the field.

h) Warranty - Installer shall provide an (2) year warranty on workmanship.

Purchase Orders:
Under the terms and conditions of this Price Agreement all State of New Mexico agencies may issue purchase orders for items and/or services described herein. The terms and conditions of this Price Agreement shall form a part of each order issued hereunder.

Public Works Minimum Wage Act:
This is a Public Works contract subject to the provisions of the Public Works Minimum Wage Act, Section 13-4-11 through 13-4-17, et seq. NMSA 1978 as amended. Minimum Wage Rates as determined and published by the New Mexico Department of Workforce Solutions, Public Works Bureau, Santa Fe, New Mexico, shall be in effect and utilized by the vendor during the life of this price agreement.

You are hereby advised that wherever differences exist between the minimum wage rates shown under wage decisions of the New Mexico Department of Workforce Solutions, Public Works Bureau, Santa Fe, New Mexico, and those

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shown under U.S. Department of Labor Wage Decision and any modification thereto noted in the contract assembly, the higher wage rates shall govern.

If a Contractor or subcontractor is willfully paying his laborers, mechanics, or operators less than the rates required by the agreement for the work the laborers, mechanics, and operators are performing, the contractor or subcontractor may lose his right to proceed with the work.

Contract Order:
At time of every task order issued for projects over sixty thousand dollars ($60,000.00), a Wage Rate Decision number must be requested by end user of the user Agency. The Wage Rate Decision number can be obtained by contacting Work Force Solutions at https://www.dws.state.nm.us/public-works. Wage Rates must be attached to each contract order issued.

Performance, Payment and Material Bonding:
Upon the issuance of a purchase order, the awarded Vendor(s) must provide a 100% performance bond and a 100% payment and material bond executed by a surety company authorized to do business in the State of New Mexico will be required of the successful bidder(s) prior to each project over $25,000.00. Said bonds must be provided to the requesting agency and are to be filed with the agency's purchasing office. Failure to comply shall result in order being issued to another vendor and difference being charged back to the awarded contractor(s). Bond cost shall be billed as an actual cost with no markup. A copy of the bond is required to be sent to the Agency.

Firm Lump Sum Fixed Price:

The total project contract amount represents the total compensation to be paid by the state for goods and/or services provided and referred to hereafter as the firm lump sum fixed price. It is understood that the party providing said goods and/or services in such lump sum fashion to the state is responsible for payment of all its costs necessary to complete the work including but not limited to labor, equipment, tools, materials, subcontractors, professional services fee for drawings and specifications if not provided, taxes, licenses, fee, permits, bonds if required, profit and overhead and insurance. The prices provided herein represent the total compensation to be paid by the State for goods and/or services provided.

General:
All work shall be performed in accordance with the New Mexico building codes. When applicable, the awarded contractor shall be responsible for all permits associated with this work as required by the State of New Mexico, Construction Industries Division. The Construction Industries Division will issue permits for work performed at state owned buildings. Permit costs shall be billed as an actual cost with no markup.

The contractor will be contacted on an as needed basis to perform work associated with this contract. The Procuring Agency may solicit quotes from more than one vendor listed in this price agreement. The contractor may lower his rates on any of the bid items in order to submit a more competitive quote. The Procuring Agency may issue a purchase order to the contractor with the lowest quote that meets all of the requirements of the scope of work. The Procuring Agency reserves the right to accept offers from contractors that desire to submit quotes which better meet the hours and identified costs in order to obtain a fair and reasonable price based on the level of effort and mix of labor proposed to perform. Upon agreement of the cost by the contractor and the Procuring Agency, a firm lump sum fixed price purchase order will be executed.

The contractor and the subcontractors' employees agree to cooperate with and to abide by the rules and requirements of the requesting state agency to not interfere with the daily operations of the agency or to jeopardize the health, safety or welfare of the Procuring Agency's employees or general public conducting business with the state.

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Contractor Identification:
Persons or employees assigned to work in or on all properties shall be identifiable as an employee of said contractor. A typical method of identification would be a uniform containing the name of the person and/or company logo and name or any combination of identity. Additionally, all service vehicles shall be clearly marked as to contractors name or logo or any combination so as to be visible on the fleet.

The Bidder is responsible for direct supervision of the landscape maintenance personnel. The supervisor or designee with the authority to act, shall always be available, to respond to emergency calls and at all reasonable times to report to and confer with the Procuring Agency.

Debarred or Suspended Contractors:
A business (Contractor, Subcontractor, or Supplier) that has either been debarred or suspended pursuant to the requirements of Sections 13-1-177 through 13-1-180, and 13-4-11 through 13-4-17, NMSA 1978, shall not be permitted to do business with the State and shall not be considered for award of contract during the period for which it is debarred or suspended.

Bribes, Gratuities and Kickbacks:
It is illegal in the State of New Mexico for any public employee to solicit or accept anything of value in connection with award of contract for this Bid and for any person to offer or pay anything of value to any such public employee (30-24-1 and 30-24-2, NMSA 1978).

Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including Sections 30-24-1 through 30-24-3, NMSA 1978, and 30-41-1 through 30-41-3, NMSA 1978), which prohibit bribes, kickbacks, and gratuities, violations of which constitutes a felony. Further, the Procurement Code (Sections 13-1-28 through 13-1-199, NMSA 1978) imposes civil and criminal penalties for its violation.

Assignment of Antitrust Claims:
The Contractor agrees that any and all claims that the Contractor may have or that may inure to the Contractor for overcharges resulting from antitrust violations as to goods, services, and materials purchased in connection with this Bid are hereby assigned to the State of New Mexico, but only to the extent that such overcharges are passed on to the State. The Contractor further agrees to require each of its Suppliers, Subcontractors, and Sub subcontractors to assign any and all such claims for overcharges to the State by executing an assignment on the form provided by the Owner for such purpose. The executed form (see Section 00600-7) shall be submitted prior to the commencement of the Work or the supplying of any materials by the Supplier, Subcontractor, or Sub subcontractor. The submission of this executed form may be waived by the Owner upon a showing of a good-faith effort by the Contractor to obtain agreement in writing from his Supplier, Subcontractor, or Sub subcontractor. Waiver by the Owner may not unreasonably be denied.

It is agreed that the Contractor retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the State, including the right to any treble damages attributable thereto.

Subcontractors:
Subcontractors are allowed to work on this contract only with written prior approval by the agency contracting for the work. Subcontractors' activities must be defined and the cost of their work broken out on a separate line(s) on the quote. The subcontractor's quote must follow the price agreement item breakdown and have materials itemized. If a subcontractor's quote is included in the accepted primary contractor's quote then subcontractor approval is implied. If a contractor desires to change the subcontractor after contract award, written approval must be obtained from user agency.

The Primary contractor will be wholly responsible for the entire performance of the subcontractor and must adequately supervise the work of the subcontractor in order to ensure that the quality of their work meets the State's standards. Subcontractors are subject to the same applicable licensing and insurance coverage as the primary contractor. Subcontractors who have been suspended or debarred from doing state or federal work may not be used by the Primary Contractor.

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The awarded vendor may NOT add a markup for subcontracted work.

Scope of Work for upgrades to new or existing electrical, plumbing or landscape irrigation systems, diagnostic services and performance.

Contractor(s) shall be capable of providing all new or upgrades or repairs to existing electrical, plumbing or landscape irrigation systems, diagnostic services, perform trouble shooting services and to prepare proposals for all costs and services needed to perform the work required, in compliance with the national and state electrical and plumbing codes. The Procuring Agency shall provide, a detailed scope of work and/or drawings, generally defining the electrical or plumbing / landscape irrigation work required for the project.

All work shall be performed in a neat and workmanlike manner, while maintaining the work area(s) in a clean condition. All work shall be installed in strict compliance with industry standards, by workers trained and certified to perform the work. All materials shall be new and of the highest quality available for the type of work being performed.

The Contractor shall provide all protective coverings necessary to protect existing finishes and improvements which are in the area where the new work will occur.

The Contractor shall restore any damage to existing finishes. Restoration work shall be inconspicuous with existing finishes.

The Contractor shall provide all clean-up for its operations. All hazardous and non-hazardous construction debris shall be removed from the work areas and disposed of at an approved waste disposal site. The owner's trash container for the building shall not be used for disposal of construction debris.

Labor:
Personnel working on the project and providing these services shall be experienced in all areas related to this work and required by this contract. Supervisor and/or Journeymen level personnel shall have the ability and necessary skills to diagnosis problems and to make the appropriate decisions needed to provide these services.

***** End of Scope of Work *****

Materials, Subcontracts and Other Associated Costs:
Materials, subcontracts and other associated costs necessary to perform the work stipulated in the scopes of work shall be itemized with pricing. After acceptance of the costs identified in this section by the Agency, those costs shall be treated as provided in the section on Firm Lump Sum Fixed Price. If there is to be a discount on the retail materials, the quote must show the discount.

All material specified in the prices provided, regardless of whether incorporated in the work shall be deemed included as paid for by the Owner or Procuring Agency. As such, any unused materials shall be turned over to the Owner or Procuring Agency for whom the work was provided. The State of New Mexico requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

Awarded vendors may NOT add a markup for materials, subcontractors, equipment rental or any associated costs. Profit and overhead markups are not allowed.

Equipment Rental:
If special equipment is required to perform the work required, the Contractor may quote the cost of said equipment. The Procuring Agency will have final determination and decision, if specialized equipment is truly required for the project

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Quote Request:
When a service is needed, the Procuring Agency shall provide, at a minimum, a detailed scope of work and/or drawings (if required) defining work required.

The Contractor shall make an effort to visit the site and compare the owner's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this price agreement.

The Contractor will be required to provide a written quote at no cost to the State, to include the work to be performed as well as the number of days required for the completion of the project and submit it to the Procuring Agency or local public body.

Change Orders:
Change Orders are lump sum amounts which are added to the Purchase Order as a line item or put into a new Purchase Order. They are to be used for unforeseen conditions or Agency identified but non estimated work. When they are quantified and identified, the resultant cost must be submitted to the Agency with subcontractor quotes. No extra work can be started until the Change Order is approved in writing and the Purchase Order is approved.

Written justification shall accompany the request. The justification shall include the reason, the scope, the history of the issue, the place of the work and any other relevant details.

Work Commencement:
Prior to commencement of any work performed the Procuring Agency will issue a notice to proceed for the work upon receipt of a purchase order, based on the prices set forth by vendor's quote. The Contractor is required to submit a work schedule which will indicate the approximate completion date of the project. It should be updated with any changes as the work proceeds. The contractor shall begin the work based on the priority identified by the Procuring Agency. Any delay beyond the stated completion date shall be upon agreement by the owner and the contractor. If submittals or shop drawings are required, then they must be approved before the relevant work is started.

The Contractor shall supervise and direct the work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the project. The contractor shall be responsible to the Procuring Agency for the acts and omissions of his employees and, if prior approved, Subcontractors and their agents and employees and other persons performing any of the work under a contract with the Contractor.

Where work is to be conducted in a state correctional or secured facility, security clearances and background checks that may be required by the facility for the contractor and its employees must be obtained prior to commencement of any work at that facility. The Procuring Agency reserves the right to deny any employee of the contractor, access to the facility should the employee be in violation of any criteria required for the security clearance.

The Procuring Agency or local public body reserves the right to provide an escort and/or full time supervision of the contractor and its employees during any or all phases of a project, should the Procuring Agency feel it is in its best interest to provide these extraordinary security services.

The Procuring Agency or local public body reserves the right to escort any or all employees of the contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or well-being of the facility. Inappropriate behavior by the contractor, its employees or subcontractors shall immediately cancel this contract. Any employee of the contractor found in violation of any law, while on the user agency's property, will be prosecuted.

The Procuring Agency or local public body may order the Contractor to stop the work or a portion of it if the contractor fails to correct defective work or persistently fails to carry out the work. The Procuring Agency would do so in writing with justifications with the knowledge that if the 'stop work' was not sufficiently justified, the contractor may be owed for demobilizing and remobilizing.

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Review of Project Documents:
The Contractor shall carefully study and compare the project documents and shall report at once to the Procuring Agency any error, inconsistency or omission he may discover. If this occurs during the work, the Contractor shall not continue the related work until the issue is resolved.

Safety:
The Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. This includes precautions to prevent damage, injury or loss to: 1) all employees on the work and all other persons who may be affected thereby, 2) all the work an all materials and equipment to be incorporated therein, whether in storage on or off site, under the care, custody or control of the Contractor or any of his Subcontractors or sub-Subcontractors, 3) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contactor shall erect and maintain, as required by existing conditions and progress of work all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying agencies and users of adjacent utilities. All OSHA regulations shall be followed as well as any other Codes which pertain to safety procedures.

Warranties:
The Contractor warrants to the Procuring Agency that all work and all materials and equipment furnished under this price agreement will be of good quality, free from defects and faults and in conformance with the Project documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the user agency, the contractor shall furnish satisfactory evidence as the kind and quality of the materials and equipment. Unless otherwise specified, the contractor’s workmanship, materials and equipment will be warranted for a period of one year beginning at the agreed upon date of substantial completion.

Escalation / Reduction Clause:
Contractor shall keep pricing fixed for each year of this Agreement. Thereafter, SPD and the Contractor may adjust pricing no more than once biennially through an amendment to the Agreement at the time of Agreement renewal. Contractor shall submit all pricing increase requests to SPD directly or through the agency contact in writing and provide substantiating evidence that each request is based on demonstrable market changes impacting the cost of products. The request must show all proposed increases by line item and include supporting documentation acceptable to SPD (such as a letter from a manufacturer indicating price increases, etc.) SPD’s decision on what is acceptable in this context is final and shall be accepted by all parties to the Agreement. Requested price increases that exceed 10% will not be accepted. No price increase may result in a higher profit margin for the Contractor than at the beginning of the initial term of this Agreement. Pricing changes will apply to Agreements and amendments to Agreements entered on and after the effective date of the price change. Price decreases as well as increases shall apply in the same manner. If vendor's prices are reduced for any reason, users shall receive the benefit of such reductions, immediately. Price increases will not be retroactive to orders already in house or backorders. Orders will be filled at the price in effect on the date of receipt of the order by the vendor. To facilitate prompt consideration, all requests for price increase must include all information listed below:

1. Agreement Item Number
2. Current Item Price
3. Proposed New Price
4. Percentage of Increase
5. Mill/Supplier Notification of price increase indicating percentage of increase including reason for increase.

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Insurance:
The contractor shall provide all insurance necessary for its employees on the project, including, but not limited to, workman's compensation insurance. The contractor agrees to comply with state laws and rules pertaining to workers' compensation insurance coverage for its employees. If the contractor fails to comply with the workers' compensation act and applicable rules, when required to do so, this contract will be cancelled immediately.

Contractor shall indemnify and hold harmless the state, its officers and employees against liability claims, damages, losses or expenses arising out of bodily injury to persons or damage to property caused by or resulting from the contractor's, and/or its employees, own negligent act(s) or omissions while the contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under the

Terms and Conditions of this agreement. This "save harmless and indemnification" clause is subject to the immunities, provisions and limitations of the tort claims act (41-4-1, et seq., N.M.S.A. 1978 comp), section 57-7-1 N.M.S.A. 1978 comp. and any amendments thereto.

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

The contractor shall provide public liability insurance for the minimum amount of $300,000 for damage to or destruction of property arising out of each occurrence; the amount of $300,000 to any person for any number of claims arising out of each occurrence for all damages other than property damage as permitted under the New Mexico tort claims act; and the amount of $1,00,000 for all claims arising out of each occurrence.

Method of Award:
The State Purchasing Agent reserves the right to award this Invitation to Bid per zone in total; by groups of items; on the basis of individual items; any combination of these which could result in a multiple award; or as otherwise specified in bid specifications; whichever, in his/her judgment, best serves the interest of the State of New Mexico.

Multiple Awards:
Determination for award shall be based upon the lowest total cost of all items listed and the bidder's abilities to meet the "minimum and submittal requirements" of the Invitation to Bid. This may be a multiple award contract.

Quantities:
The approximate quantities for each item are estimated and are for bidding purposes only. Actual requirements will be as determined by the using agency at the time of P.O. Quantities may be increased or decreased as necessary to meet actual requirements. The State does not guarantee any amount of work.

CONTRACTOR REQUIRED INFORMATION:
No person shall act as a contractor without a license issued by the Construction Industries Division, classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the contractor has the appropriate valid contractor's license issued by the Construction Industries Division to bid and to perform the type of work to be undertaken, as set forth in § 60-13-12, NMSA 1978.

New Mexico Public Works Registration No. (required at time of bidding): _____

Contractor's New Mexico License No. (required at time of bidding): _____.

Contractor Classification No.: _____.

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State Tax ID No.: _____

Federal Taxpayer ID No.: _____

Item Description Key:

Item	Approx. Qty.	UOM	Article and Description
1	1	Hourly	On Call General Landscaping and/or Landscape Maintenance
2	1	Hourly	Landscape Irrigation Maintenance and Repair
3	1	SqFt.	Landscape Construction - Landscape specific materials, mulch, ornamental gravel, decorative rocks, grass, artificial turf, water features, exterior lighting, irrigation; installation and/or remodels
4	1	Hourly	Superintendent or Supervisor, regular hours worked
5	1	Hourly	Superintendent or Supervisor, after hours worked
6	1	Hourly	Journeyman or Experienced Worker, regular hours worked
7	1	Hourly	Journeyman or Experienced Worker, after hours worked
8	1	Hourly	Laborer, regular hours worked
9	1	Hourly	Laborer, after hours worked
10	1	Hourly	Mowing, edging, shrub and groundcover pruning, and removal of trash/litter.
11	1	Hourly	Power Washing hardscapes
12	1	Hourly	Tree and shrub planting, decorative plants and grasses
13	1	Hourly	Tree and Stump Removal
14	1	Hourly	Diagnosis, project estimates, troubleshooting, other
15		Percent	Discount off all parts and materials. Invoice will include copies of all purchases for parts and materials, including vendor and date purchased. Enter zero if no discount is offered.

***** 15 Items Total *****

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State of New Mexico
General Services Department
Purchasing Division
Statewide Price Agreement #: 30-00000-23-00091

	(AA) Accent Landscape Contractor's	(AB) Charly Landscaping LLC	(AC) Saucedos Janitorial Service	(AD) Steamer Inc. dba Proscape Landscape Management	(AE) Westwind Landscape Construction, Inc.
Item	**Unit Price**	**Unit Price**	**Unit Price**	**Unit Price**	**Unit Price**
1	**$65.00**	**$85.00**	**$75.00**	**$50.00**	**$75.00**
2	**$75.00**	**$65.00**	**$75.00**	**$75.00**	**$75.00**
3	**$10.00**	**$62.00**	**$25/SqFt.**	**$17.00**	**$14.00**
4	**$85.00**	**$65.00**	**$150.00**	**$65.00**	**$98.00**
5	**$130.00**	**$120.00**	**$225.00**	**$75.00**	**$147.00**
6	**$75.00**	**$55.00**	**$150.00**	**$70.00**	**$98.00**
7	**$115.00**	**$110.00**	**$225.00**	**$75.00**	**$147.00**
8	**$65.00**	**$35.00**	**$75.00**	**$45.00**	**$75.00**
9	**$98.50**	**$85.00**	**$112.50**	**$65.00**	**$112.00**
10	**$65.00**	**$40.00**	**$75.00**	**$75.00**	**$75.00**
11	**$65.00**	**$40.00**	**$250.00**	**$130.00**	**$75.00**
12	**$65.00**	**$55.00**	**$250.00**	**$55.00**	**$75.00**
13	**$65.00**	**$55.00**	**$350.00**	**$160.00**	**$75.00**
14	**$100.00**	**$65.00**	**$75.00**	**$75.00**	**$110.00**
15	**0%**	**10%**	**0%**	**3%**	**0%**

***** 15 Items Total *****

DocuSign

Certificate Of Completion

Envelope Id: E412BEFB20464B689C1E68D32C036E61
Status: Completed
Subject: GSD/SPD Procurement#: 30-00000-23-00091 Landscaping Statewide
Source Envelope:
Document Pages: 18
Signatures: 1
Envelope Originator:
Certificate Pages: 5
Initials: 2
Arrianna Romero
AutoNav: Enabled
1100 S Saint Francis Dr
EnvelopeId Stamping: Enabled
Santa Fe, NM 87502
Time Zone: (UTC-07:00) Mountain Time (US & Canada)
Arrianna.Romero1@gsd.nm.gov
IP Address: 164.64.63.2

Record Tracking

Status: Original
7/20/2023 3:22:39 PM
Holder: Arrianna Romero
Arrianna.Romero1@gsd.nm.gov
Location: DocuSign
Security Appliance Status: Connected
Pool: StateLocal
Storage Appliance Status: Connected
Pool: GSD
Location: DocuSign

Signer Events	Signature	Timestamp
Michael Saavedra Michael.Saavedra@gsd.nm.gov New Mexico General Services Security Level: Email, Account Authentication (None), Login with SSO	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 7/20/2023 3:27:56 PM Viewed: 7/20/2023 3:43:23 PM Signed: 7/20/2023 3:43:31 PM
Electronic Record and Signature Disclosure: Accepted: 6/4/2020 11:04:51 AM ID: 9cac1b3e-4279-4c8f-b2b4-c607ea9821d8		
Arrianna Romero Arrianna.Romero1@gsd.nm.gov Purchasing Agent Advance New Mexico General Services, State Purchasing Division Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 164.64.62.10	Sent: 7/20/2023 3:43:33 PM Viewed: 7/21/2023 9:02:28 AM Signed: 7/21/2023 9:02:47 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Dorothy Mendonca dorothy.mendonca@gsd.nm.gov SPD Division Director / State Purchasing Agent General Services Department Signing Group: 35000 - State Purchasing Agent Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 174.205.160.21 Signed using mobile	Sent: 7/21/2023 9:02:49 AM Viewed: 7/21/2023 9:04:05 AM Signed: 7/21/2023 9:04:23 AM
Electronic Record and Signature Disclosure: Accepted: 4/14/2023 7:24:59 AM ID: 51f6380f-50f7-4227-afb5-572b373dfb7c		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	7/20/2023 3:27:56 PM
Certified Delivered	Security Checked	7/21/2023 9:04:05 AM
Signing Complete	Security Checked	7/21/2023 9:04:23 AM
Completed	Security Checked	7/21/2023 9:04:23 AM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to **this Electronic Record and Signature Disclosure (ERSD)**, please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a $1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

E. All notices and disclosures will be sent to you electronically

Unless you inform GSD otherwise according to these procedures, GSD will electronically provide you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements and other documents that are required to be provided or made available to you during the course of your electronic signature relationship with SONM. To reduce the possibility of inadvertent non-receipt, GSD prefers to provide all required notices and disclosures by the same method and to the same email or physical address that you furnish to GSD. Thus, you may receive the disclosures and notices electronically or in paper form. If you do not agree with this procedure, please inform GSD according to the procedures stated in Section I, below. Please also refer to Section D, immediately above, which states the consequences resulting from your declination of electronic delivery of notices and disclosures.

F. How to contact GSD:

You may inform General Services Department (GSD) of any changes you select regarding State Purchasing Division's (SPD) electronic communications with you, to request paper copies of certain information from SPD, and to withdraw your prior consent to receive notices and disclosures electronically by emailing your request(s) to SPD at: *GSD.SPDinfo@state.nm.us*

G. To advise SPD of your new email address

To inform SPD of a change in the email address to which SPD sends you notices and disclosures electronically, you must send an email to SPD at *GSD.SPDinfo@state.nm.us* and in the body of such request you must include your previous and new email addresses.

H. To request paper copies from SPD

To request delivery of paper copies of electronic notices and disclosures that DocuSign and/or SPD have previously provided to you, you must send an email to SPD at *GSD.SPDinfo@state.nm.us* and in the body of your email request state your email address, full name, mailing address, and telephone number. SPD will charge you a $1.00 per page copy fee plus postage.

I. To withdraw your consent with SPD

To inform SPD that you no longer wish to receive notices and disclosures in electronic format you may:

(1) Decline to sign a document from within a signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may:

(2) Send SPD an email to *GSD.SPDinfo@state.nm.us* and in the body of your request state your email address, full name, mailing address, and telephone number.

J. Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current DocuSign system requirements may be found at:
https://support.docusign.com/guides/signer-guide-signing-system-requirements

K. Acknowledging your access and consent to receive and sign documents electronically

To confirm that you are able to electronically access the information contained in this Electronic Record and Signature Disclosure (ERSD), please confirm that you have: (1) read this ERSD, and either: (2) you are able to print on paper or electronically save this ERSD for your future reference and access; or (3) you are able to email this ERSD to an email address where you will be able to print this ERSD on paper and/or save this ERSD for your future reference and access. Further, if you consent to receiving notices and disclosures from DocuSign and/or SPD exclusively in electronic format, then select the check-box next to "I agree to use electronic records and signatures," before you click "CONTINUE" within the DocuSign system.

By selecting the check-box next to "I agree to use electronic records and signatures," you confirm that:

- You have read this Electronic Record and Signature Disclosure (ERSD); and
- You can print this ERSD on paper, or you can save and/ or send this ERSD to a location where you can print this ERSD, for your future reference and access; and
- Until or unless you notify SPD as stated in this ERSD, you consent to exclusively receive through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by SPD during the course of your electronic signature relationship with SPD.

Client#: 1142344 ACCENLAN3

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/17/2024

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

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

PRODUCER
USI Southwest Inc. NM - CL
4100 Osuna Road NE Suite 2-203
Albuquerque, NM 87109

CONTACT NAME: Audry Eagle
PHONE (A/C, No, Ext): 505 262-2621 **FAX (A/C, No):**
E-MAIL ADDRESS: Audry.Eagle@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Donegal Mutual Insurance Company	13692
INSURER B : Builders Trust of New Mexico	99999
INSURER C : Atlantic States Insurance Company	22586
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Accent Landscape Contractors, Inc.
5919 Edith Blvd. NE
Albuquerque, NM 87107

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	CPT9525914	09/01/2024	09/01/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:							$
C	AUTOMOBILE LIABILITY	X	X	1000217533	09/01/2024	09/01/2025	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR	X	X	CXL9525914	09/01/2024	09/01/2025	EACH OCCURRENCE	$5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$5,000,000
	DED X RETENTION $0							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N		X	WC1000006626	09/01/2024	09/01/2025	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N	N / A					E.L. EACH ACCIDENT	$2,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$2,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$2,000,000
A	Leased/Rented Eq.			CPT9525914	09/01/2024	09/01/2025	$250K Limit/$1000 Ded.	
C	Hlred Auto			1000217533	09/01/2024	09/01/2025	$100k Limit	
	Physical Damage						$100 Comp./$500 Coll	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The General Liability, Automobile and Umbrella policies include an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder and Owner, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed by or on behalf of the named insured.
The General Liability, Automobile and Workers' Compensation policies provide a Blanket Waiver of
(See Attached Descriptions)

CERTIFICATE HOLDER
City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909

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

AUTHORIZED REPRESENTATIVE

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From: Matt Loehman
To: KAHAHANE, ELIZABETH L.
Subject: Re: Horizons Declination – Install a new irrigation system at the Railyard Park
Date: Wednesday, October 16, 2024 1:38:26 PM
Attachments: image001.png

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon Lisa,

Thank you very much for the opportunity, but we will decline this procurement.

Best regards,

Matt

Matt Loehman
Executive Director

Horizons of New Mexico
6121 Indian School Rd. NE, Suite 220
Albuquerque, NM 87110

office phone: (505) 345-1540
email: mloehman@horizonsofnewmexico.org
web: www.horizonsofnewmexico.org

The State Use Act helps people with disabilities become gainfully employed, and it saves you valuable time and resources otherwise used during the procurement process.

On Wed, Oct 16, 2024 at 11:56 AM KAHAHANE, ELIZABETH L. <elkahahane@santafenm.gov> wrote:

> Hello Matt,
>
> The City of Santa Fe is seeking a Horizons Determination for the following Scope of Work:
>
> - Install a new irrigation system at the S.F. Railroad Park.

Please let me know if you have any questions.

Thanks!

Best,

Elizabeth "Lisa" Kahahane

Contracts Administrator | Facilities Division | Public Works Dept.

Email: elkahahane@santafenm.gov
M: (505) 795-2439

O: (505) 955-5934

From: DUTTON-LEYDA, TRAVIS K.
To: KAHAHANE, ELIZABETH L.; Purchasing DET
Cc: BOHLMAN, JOSHUA B.
Subject: RE: Request SOW Determination for Irrigation System
Date: Friday, September 27, 2024 9:33:05 AM
Attachments: image003.png

Greetings,

The scope of work as written would be General Services. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- Check with WorkQuest dba Horizons of New Mexico (vendor # 8673) (mloehman@horizonsofnewmexico.org) if this service appears on their approved list.
- If your request includes anything that needs to be reviewed and preapproved by another city Department/Division, please send your SOW to the corresponding email address, and provide their response to this office when you submit your procurement request for processing.
  -IT components - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - mtbonifer@santafenm.gov; cmthompson@santafenm.gov
  -Facilities, Furniture, Fixture, Equipment - jsburnett@santafenm.gov_
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - lmstorey@santafenm.gov

- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed. _
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
  From $20k to $60k per year, if you aren't using a cooperative or existing contract,

you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.

- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.
- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this request. You might be able to use an existing price agreement to save time and money.
    - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
    - https://naspovaluepoint.org/categories/
    - https://www.omniapartners.com/publicsector/contracts
    - https://www.buyboard.com/home.aspx
    - https://www.h-gac.com/Home
    - https://www.gsaelibrary.gsa.gov/
    - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
    - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - Determination requests to purchasing_det@santafenm.gov
    - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer

City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

More Procurement, less drama ~ John Blair

From: KAHAHANE, ELIZABETH L. <elkahahane@santafenm.gov>
Sent: Friday, September 27, 2024 9:19 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>; BOHLMAN, JOSHUA B. <jbohlman@santafenm.gov>
Subject: Request SOW Determination for Irrigation System

Good morning,

Facilities Division is requesting a SOW determination for the following:

Installation of a new irrigation system at the Santa Fe Railyard Park

Thank you!

Best,
Elizabeth "Lisa" Kahahane
Contracts Administrator | Facilities Division | Public Works Dept.
Email: elkahahane@santafenm.gov
M: (505) 795-2439
O: (505) 955-5934

CITY OF SANTA FE
FACILITIES

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Facilities/RYD	10/10/2024

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction - Railyard IRR & Wtr Harvesting	5150403	572970	PWA2551501	750,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
JUSTIFICATION: *(use additional page if needed)* *--Attach supporting documentation/memo*				$ 750,000	$ -

FY25 Budget increase for Railyard Irrigation and Harvesting improvements from available Railyard Fund Balance.

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
515	(750,000)
TOTAL:	**(750,000)**

De Alva Calabaza — 10/10/2024
Prepared By *{print name}* — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Jan 21, 2025 15:02 MST) — Jan 21, 2025
Budget Officer — Date

Business Operations Manager Signature {optional} — Date

Finance Director *{≤ $5,000}* — Date

JOHN BURNETT (Dec 17, 2024 12:41 MST)
Department Director Signature — Date

N/A
City Manager *{≤ $60,000}* — Date

Regina Wheeler
Regina Wheeler (Dec 17, 2024 17:26 MST)

Contract Packet_Railyard Irrigation 12 16 2024 _JB3 TF1 ELK RW2 SB4

Final Audit Report 2024-12-18

Created:	2024-12-16
By:	Elizabeth Kahahane (elkahahane@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyUFRQE0QQ32sJGgEDjw3J6IpfkNiOEHl

"Contract Packet_Railyard Irrigation 12 16 2024 _JB3 TF1 ELK RW2 SB4" History

Document created by Elizabeth Kahahane (elkahahane@santafenm.gov)
2024-12-16 - 11:23:57 PM GMT- IP address: 63.232.20.2

Document emailed to JOSHUA BOHLMAN (jbohlman@santafenm.gov) for signature
2024-12-16 - 11:32:27 PM GMT

Email viewed by JOSHUA BOHLMAN (jbohlman@santafenm.gov)
2024-12-17 - 5:17:35 PM GMT- IP address: 104.47.65.254

Document e-signed by JOSHUA BOHLMAN (jbohlman@santafenm.gov)
Signature Date: 2024-12-17 - 5:17:44 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to Melissa McDonald (mamcdonald@santafenm.gov) for signature
2024-12-17 - 5:17:56 PM GMT

Email viewed by Melissa McDonald (mamcdonald@santafenm.gov)
2024-12-17 - 7:08:34 PM GMT- IP address: 63.232.20.2

Document e-signed by Melissa McDonald (mamcdonald@santafenm.gov)
Signature Date: 2024-12-17 - 7:09:18 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to JOHN BURNETT (jsburnett@santafenm.gov) for signature
2024-12-17 - 7:09:21 PM GMT

Email viewed by JOHN BURNETT (jsburnett@santafenm.gov)
2024-12-17 - 7:39:49 PM GMT- IP address: 174.240.21.162

Document e-signed by JOHN BURNETT (jsburnett@santafenm.gov)
Signature Date: 2024-12-17 - 7:41:18 PM GMT - Time Source: server- IP address: 73.228.3.65

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Document emailed to rawheeler@santafenm.gov for signature

2024-12-17 - 7:41:20 PM GMT

Email viewed by rawheeler@santafenm.gov

2024-12-18 - 0:26:14 AM GMT- IP address: 104.47.65.254

Signer rawheeler@santafenm.gov entered name at signing as Regina Wheeler

2024-12-18 - 0:26:28 AM GMT- IP address: 63.232.20.2

Document e-signed by Regina Wheeler (rawheeler@santafenm.gov)

Signature Date: 2024-12-18 - 0:26:30 AM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2024-12-18 - 0:26:30 AM GMT

Contract Packet_Railyard Irrigation 12 16 2024 _JB3 TF1 ELK RW2 SB4 v3

Final Audit Report 2025-01-30

Created:	2025-01-21
By:	JAMES EDWARDS (jwedwards@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAC5X3kYJsiP5XLKIHmm9ZtP-qeHrszv6v

"Contract Packet_Railyard Irrigation 12 16 2024 _JB3 TF1 ELK RW2 SB4 v3" History

Document created by JAMES EDWARDS (jwedwards@santafenm.gov)
2025-01-21 - 9:53:51 PM GMT- IP address: 63.232.20.2

Document sent to ALEXIS LOTERO (aclotero@santafenm.gov) and ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature. One of them to sign
2025-01-21 - 9:58:11 PM GMT

Email viewed by ALEXIS LOTERO (aclotero@santafenm.gov)
2025-01-21 - 9:58:42 PM GMT- IP address: 104.47.64.254

Document e-signed by ALEXIS LOTERO (aclotero@santafenm.gov)
Signature Date: 2025-01-21 - 10:02:24 PM GMT - Time Source: server- IP address: 63.232.20.2

Document sent to JoAnn Lovato (jdlovato@santafenm.gov) and Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature. One of them to sign
2025-01-21 - 10:02:29 PM GMT

Email viewed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2025-01-22 - 3:10:29 PM GMT- IP address: 98.97.112.124

Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2025-01-22 - 3:17:25 PM GMT - Time Source: server- IP address: 98.97.112.124

Document emailed to Josie Bolden (jxbolden@santafenm.gov) for signature
2025-01-22 - 3:17:29 PM GMT

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2025-01-30 - 6:20:42 AM GMT

City of Santa Fe, New Mexico
Memorandum

DATE: January 16, 2025

TO: Governing Body

VIA: Brian Moya, Fire Chief BM

FROM: Sten Johnson, Assistant Chief SJ

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) to move $775,000 General Fund Balance to Fire Equipment and Machinery to Purchase Ambulance Gurneys, Stair Chairs, Fire Hose & Nozzles and Starlink high speed broadband internet for the Fire Department. (Brian Moya, Fire Chief, bjmoya@santafenm.gov)

Request for Approval to Purchase Ambulance Gurneys and Stair Chairs from Stryker Medical in the Total Amount of $500,000.
Request for Approval to Purchase Fire Hose and Nozzles from Municipal Emergency Services in the Total Amount of $250,000.
Request for Approval to Purchase Starlink mobile, high speed, broadband internet for $25,000.

BACKGROUND:
Ambulance gurneys and stair chairs are critical pieces of equipment used daily in emergency medical services. These tools ensure the safe and efficient transport of patients in challenging situations such as stairwells or confined spaces, thereby reducing the risk of injuries to both patients and first responders. Routine use over time can compromise the reliability and safety of this equipment, making replacements necessary to ensure compliance with safety and operational standards.

Fire hoses and nozzles are essential tools for firefighting operations, which directly impact the safety of both firefighters and the community. Over time, these tools experience wear and tear due to frequent use in high-pressure circumstances and exposure to harsh conditions. Replacing this equipment ensures that firefighters can perform their duties effectively and safely. Additionally, the purchase aligns with the department's operational goals by ensuring compliance with industry standards and maintaining the reliability of critical firefighting equipment. This minimizes potential equipment failure during emergencies, thereby reducing risks and improving outcomes for the community.

Starlink provides high speed, broadband internet using a simple, scalable hardware platform that can be easily distributed across locations. Unbounded by local infrastructure, and designed to support multiple paths back to the internet, Starlink provides reliable service. The Fire Department could utilize this in several scenarios. During fire and rescue calls occurring in the National Forest and Hyde Park Road radio communication is not reliable. In the possible event of a natural disaster when local internet and phone infrastructure was disabled. This would help to keep communication streams open for emergency communications.

Approval of this request will allow the Santa Fe Fire Department to sustain its mission of protecting lives and property while enhancing overall operational efficiency and safety.

FUNDING SOURCE: FY25 MID-YEAR FUNDING ALLOCATION FROM GENERAL FUND BALANCE
FUND NAME/NUMBER: GENERAL FUND/ 100
MUNIS ORG FIRE SUPPORT SERVICES/ORG: 1000186. MUNIS OBJ 570500/EQUIPMENT AND MACHINERY. $500,000
MUNIS ORG FIRE ADMINISTRATION/1002001. MUNIS OBJ SAFETY SUPPLIES/530500. $250,000
MUNIS ORG FIRE SUPPORT SERVICES/ORG: 1002001. MUNIS OBJ 570500/EQUIPMENT AND MACHINERY. $25,000

PROJECT LEDGER: NA

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Fire	1/23/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
FY 24/25 Equipment and Machinery	1000186	570500		500,000	
FY 24/25 Safety Supplies	1002001	530500		250,000	
FY 24/25 Equipment and Machinery	1002001	570500		25,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 775,000	$ -

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

(See memo)

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

Sten Johnson — 1/23/2025
Prepared By *{print name}* — Date

1/23/25
Division Director Signature *{optional}* — Date

1/23/25
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 5, 2025 16:45 MST)
Budget Officer — Date: Feb 5, 2025

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 16, 2025

TO: Governing Body

VIA: Regina Wheeler, Public Works Director RW

FROM: Brian Moya, Fire Chief BM

ACTION:
Request Approval of a Budget Amendment Resolution (BAR) from available balances, including $1,100,000 from the Fire Impact Fees Fund (232), $500,000 from the Gross Receipts Tax Fund (216) and $150,000 from the Capital GRT Fund (365), for a Total Amount of $1,750,000 transferred to Facilities CIP/WIP Construction to Construct Equipment Storage and Training Facilities at Fire Station 5.

BACKGROUND:
The need for additional apparatus storage, including a temperature-controlled environment, is critical to accommodate Fire's growing fleet and ensure that equipment is properly maintained and readily accessible. The current storage space is insufficient, and expanding our storage capacity will enhance operational efficiency while protecting our apparatus from weather-related damage. The training space would address the pressing need due to growth within our department by providing a new classroom, decontamination station after fires, and storage areas for the Training and Health and Safety Divisions. Meeting these needs is essential to support our department's operational requirements.

FUNDING SOURCES:
Transfer from Impact Fees Fund 232, org/object 2322001/760320 ($1,100,000)
Transfer from GRT Fund 216, org/object 2160001/760320 ($500,000)
Transfer from Capital GRT Fund 365, org/object 3650433/760320 ($150,000)
Transfer to Facilities CIP Fund 320, org/object 3209980/572970 ($1,750,000)

ATTACHMENT:
BAR

Signature: BRIAN MOYA
BRIAN MOYA (Jan 23, 2025 15:15 MST)

Email: bjmoya@santafenm.gov

Signature: Regina Wheeler
Regina Wheeler (Jan 23, 2025 15:41 MST)

Email: rawheeler@santafenm.gov

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

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

DEPARTMENT / DIVISION NAME	DATE
Fire Department	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	3209980	572970		1,750,000	
Facilities (1/2% Capital GRT Fund) / Capital Transfer to Facilities CIP Fund	3650433	760320		150,000	
Gross Receipts Tax Fund / Capital Transfer to Facilities CIP Fund	2160001	760320		500,000	
Fire Impact Fees Fund / Capital Transfer to Facilities CIP Fund	2322001	760320		1,100,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Facilities CIP Fund / Capital Transfer from 1/2% Capital GRT Fund	3209980	660365		(150,000)	
Facilities CIP Fund / Capital Transfer from Gross Receipts Tax Fund	3209980	660216		(500,000)	
Facilities CIP Fund / Capital Transfer from Fire Impact Fees Fund	3209980	660232		(1,100,000)	
				$ 1,750,000	$ -

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

Appropriations from available fund balances in the 1/2% Capial GRT Fund (365), the Gross Receipts Tax Fund (216) and the Impact Fees Fund (232) for the construction of equipment storage and training facilities at Fire Station 5A

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
216	(500,000)
232	(1,100,000)
365	(150,000)
TOTAL:	**(1,750,000)**

Andy Hopkins — 1/30/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date:

Agenda Item #:

ALEXIS LOTERO (Feb 5, 2025 16:45 MST) — Feb 5, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 15, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 14:21 MST)
Marcella Apodaca, Business Operations Manager *Marcella Apodaca*

FROM: Brian Williams, Director Office of Emergency Management BRIAN WILLIAMS

SUBJECT: One-Time Funding Requests for the Office of Emergency Management

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ITEM AND ISSUE:
The Office of Emergency Management respectfully requests the following allocations of one-time funding for the Office of Emergency Management.

BACKGROUND AND SUMMARY:
The City of Santa Fe Office of Emergency Management identified the following priority projects for a one-time funding allocation

1. **Wildfire identification thermal camera installation at McClure Dam ($170,000)**
   One-time funding from available *100* Fund Balances. ORG/OBJ: 1002850/510300 (Professional Contracts)

   This funding would allow for the purchase and installation of a thermal video surveillance system at McClure dam with a viewshed of the lower extent of the Santa Fe Municipal Watershed. This will aid in early detection and triangulation of potential wildfire starts to support rapid decision making and resource allocation.

2. **Continuity of Operations and Distribution Management Planning ($70,000.00)**
   One-time funding from available *100* Fund Balances ORG/OBJ: 1002850/510300 (Professional Contracts)

   The majority of foundational citywide Emergency Management Plans, including the Hazard Mitigation Plan (2020), Emergency Operations Plan (2024), and Threat and Hazard Identification and Risk Assessment (2023) have been overhauled in recent years. A specific area within our planning cycle that needs to be addressed is to develop both a robust Continuity of Operations Plan, as well as a Distribution Management Plan. OEM intends to procure specialized contracted support to lead these unique planning efforts.

3. **Mobile Anti-Vehicle Ramming Barriers ($251,110.00)**
   One-time funding from available *365* Fund Balances ORG/OBJ: 1002850/570500 (Equipment and Machinery > $5,000)

   This funding would allow for the purchase of 16 rapidly deployable barriers, a trailer, and accessories to keep event goers safe at large events within city limits (Zozobra, Indian Market, etc.). City staff from OEM, SFPD, SFFD, and Parks have received multiple demonstrations of this product

and believe this to be a significant upgrade from our current road closure and barrier systems. Our current limited supply of equipment is manually intensive to deploy and move a single barrier, whereas a full trailer of this type of barrier system can be deployed by a single person in approximately 15 minutes.

ACTION REQUESTED:
The Office of Emergency Management and Safety respectfully requests your review and approval.

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

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

DEPARTMENT / DIVISION NAME	DATE
Office of Emergency Management	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Professional Contracts	1002850	510300		170,000	
2) Professional Contracts	1002850	510300		70,000	
3) Equipment & Machinery > $5,000	1002850	570500		251,110	
3) 1/2% Capital GRT Fund / Operating Transfer to General Fund	3650142	750100		251,110	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
3) Emergency Management (General Fund) / Operating Transfer from 1/2% Capital GRT Fund	1002850	650365		(251,110)	
				$ 491,110	$ -

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

Appropriations from available General Fund balance for: 1) purchase and installation of a thermal video surveillance system at McClure dam to allow monitoring of the lower Santa Fe watershed for wildfire starts; 2) development of a Continuity of Operations Plan for Emergency Management; and 3) purchase of 16 rapidly deployable anti-vehicle ramming barriers for the safety of participants at large City events {item 3) funded by available balance in the 1/2% Capital GRT Fund}

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(240,000)
365	(251,110)
TOTAL:	**(491,110)**

Andy Hopkins — 1/30/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 5, 2025 16:44 MST) — Feb 5, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 16:07 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker (Jan 23, 2025 16:02 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 14:48 MST)

SUBJECT: One-Time Funding Request for Recreation

ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available General Fund Balance for Security Cameras at Fort Marcy Complex.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $100,000 for security cameras at Fort Marcy Complex. Fort Marcy Complex currently does not have security cameras, which pose a risk for patrons and public users in and around the facility. There are numerous instances of theft, vehicle vandalization, and other user risk and liability situations that cameras will greatly increase our ability to operate and create a safe space for users of the facility.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds for Security Cameras at Fort Marcy Complex.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from General Fund 100

Fund Name/Number: GENFUND/100
Munis Org Name/Number: Rec Admin/1004200
Munis Obj Name/Number: Inventory Exempt Equipment/572400
Amount: $100,000.00

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Inventory Exempt Equipment	1004200	572400		100,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 100,000	$ -

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

Appropriation from available General Fund balance for installation of security cameras at the Fort Marcy facility

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(100,000)
TOTAL:	**(100,000)**

Andy Hopkins — 1/30/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 5, 2025 16:42 MST)
Budget Officer — Feb 5, 2025 — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 16:08 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker (Jan 23, 2025 16:00 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 14:29 MST)

SUBJECT: One-Time Funding Request for Recreation

ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available Fund Balance 365 for GCCC Cooling Tower Repair and/or Replacement.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $140,000.00 for the repair, maintenance, and/or replacement of the two cooling towers at the GCCC. The GCCC cooling towers are in critical condition and are original to the building (1999). The cooling tower media is in disrepair and needs to be replaced or maintained. Cooling Tower one is engineered to work with the original compressor skid which is also original to the building. If parts and replacement implements are available, then refurbishing of tower one is viable, however, due to their original age, it is likely that parts are unavailable, and a full replacement will be needed. Cooling Tower two works with cooling compressor skid 2 which was replaced (2020). Skid two is a screw compressor system, that requires a higher output of water to effectively cool the subfloor glycol. Cooling tower two is not engineered to match with skid two and most likely needs a full replacement.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds for GCCC Cooling Tower Repair and/or Replacement.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Fund 365

Fund Name/Number: GCCOMCTR/550
Munis Org Name/Number: GCC IceOps/5500265
Munis Obj Name/Number: Remodeling & Replacement/572500
Amount: $140,000.00

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Remodeling & Replacement	5500265	520300		140,000	
1/2% Capital GRT Fund / Operating Transfer to GCCC Fund	3650142	750550		140,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
GCCC-Ice Arena / Operating Transfer from 1/2% Capital GRT Fund	5500265	650365		(140,000)	
				$ 140,000	$ -

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

Appropriation from available 1/2% Capital GRT Fund balance for repair and/or replacement of the GCCC Ice Arena cooling tower

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(140,000)
TOTAL:	**(140,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 5, 2025 16:40 MST) — Budget Officer — Feb 5, 2025 Date

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

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

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 17:13 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker (Jan 23, 2025 16:31 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 16:28 MST)

SUBJECT: One-Time Funding Request for Recreation

ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available Fund Balance 365 for Therapy Pool Deck Drain Repair and/or Replacement.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $70,000, for pool deck drain repair and/or replacement. The deck drains in the therapy pool are original to the facility (1999). Concrete shifting and movement have either collapsed or shifted in areas that cause safety concerns. Our intention is to repair the drains, and/or replace sections where they are in disrepair.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds for Therapy Pool Deck Drain Repair and/or Replacement.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Fund 365

Fund Name/Number: GCCCOMCTR/550
Munis Org Name/Number: GCC NatOps/5500264
Munis Obj Name/Number: Rep and Maint Build/Struct/520100
Amount: $70,000.00

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Repair & Maintenance - Buildings & Structures	5500264	520100		70,000	
1/2% Capital GRT Fund / Operating Transfer to GCCC Fund	3650142	750550		70,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
GCCC-Natatorium / Operating Transfer from 1/2% Capital GRT Fund	5500264	650365		(70,000)	
				$ 70,000	$ -

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

Appropriation from available 1/2% Capital GRT Fund balance for repairs to the GCCC Natatorium Therapy Pool Deck Drains

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(70,000)
TOTAL:	**(70,000)**

Andy Hopkins — 1/30/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 14:48 MST) — Feb 10, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 16:08 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker (Jan 23, 2025 15:59 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 14:48 MST)

SUBJECT: One-Time Funding Request for Recreation

ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available Fund Balance 365 for GCCC Gymnasium Floor Maintenance and Refinishing.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $70,000 for floor maintenance and refinishing in the GCCC gymnasium. The floor finish was last completed in 2014. Usable lifespan of a gym finish should be 7-10 years. However, the high usage of daily programming from 6:00 am -8:00 pm daily has put the condition floor of the gym well past its usable finish. In 2024 Recreation staff completed refinishing of court 3. Therefore, Court 1 and 2 are needing to be refinished.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds for GCCC Gymnasium Floor Maintenance and Refinishing.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Fund 365

Fund Name/Number: GCCCOMCTR/550
Munis Org Name/Number: GCC FclOps/5500262
Munis Obj Name/Number: Remodeling & Replacement/572500
Amount: $70,000.00

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Remodeling & Replacement	5500262	520100		70,000	
1/2% Capital GRT Fund / Operating Transfer to GCCC Fund	3650142	750550		70,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
GCCC-Facility Operations / Operating Transfer from 1/2% Capital GRT Fund	5500262	650365		(70,000)	
JUSTIFICATION: *(use additional page if needed)* *--Attach supporting documentation/memo*				$ 70,000	$ -

Appropriation from available 1/2% Capital GRT Fund balance for maintenance and refinishing of the GCCC Gymnasium floor

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(70,000)
TOTAL:	**(70,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 14:49 MST) — Budget Officer — Feb 10, 2025 Date

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

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

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 14:29 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker (Jan 23, 2025 14:23 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 14:20 MST)

SUBJECT: One-Time Funding Request for Recreation

ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available General Fund Balance for Aquatic Facilities Assessment for Deferred Maintenance.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $70,000 for aquatic Facilities assessment for deferred maintenance. GCCC aquatic facilities are original to the building (1999). Many of the mechanical, infrastructure, and systems are past their usable and recommended lifespan. Quality Sites: Fort Marcy, Salvador Perez, and Bicentennial Pool all have varied improvements made, and other areas where equipment and infrastructure are original or repaired 20+ years ago. To gain a full assessment of aquatic systems and facilities a full assessment of the condition, recommended repair and maintenance and modernization is needed to keep up with NMED (New Mexico Environmental Department) guidelines. We need a full assessment of all working mechanical, plumbing, electrical, chemical, and water treatment systems required to operate our aquatic facilities.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds for Aquatic Facilities Assessment for Deferred Maintenance.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from General Fund 100

Fund Name/Number: GCCCOMCTR/550
Munis Org Name/Number: GCC NatOps/5500264
Munis Obj Name/Number: Other Consulting/510340
Amount: $70,000.00

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Other Consulting	5500264	510340		70,000	
Recreation (General Fund) / Operating Transfer to GCCC Fund	1004200	750550		70,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
GCCC-Natatorium / Operating Transfer from General Fund	5500264	650100		(70,000)	
				$ 70,000	$ -

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

Appropriation from available General Fund balance for a GCCC aquatic facilities assessment of deferred maintenance

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(70,000)
TOTAL:	**(70,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 14:50 MST) — Budget Officer — Feb 10, 2025 Date

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

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

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 18:09 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 18:06 MST)

SUBJECT: One-Time Funding Request for Recreation Youth Programs

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ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available General Fund Balance for increased support for Youth After School and Summer Programs.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $200,000 to support temporary staff to increase the available number of students we currently serve through the City of Santa Fe Afterschool and Summer Programs. There is an increasing demand and great need for high-quality, safe childcare in the City of Santa Fe. This allocation of funding will greatly increase the capacity of the City's youth program to be able to serve more working families in the City. The funding will also allow for program staff to develop more administrative capacity that is needed to ensure the program has stability into the future and can continue to serve the needs of working families in the City of Santa Fe. This funding will allow for the support of economic development initiatives and support overall community services that provides for positive social outcomes for families and the youth we serve in our programs.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds to support increased capacity in our youth programs.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from General Fund 100

Fund Name/Number: REC PROG/256
Munis Org Name/Number: RecYthPrgs/2560423
Munis Obj Name/Number: Salaries (Temporary)/500750
Amount: $200,000.00

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Full-Time Temporary Salaries	2560423	500750		200,000	
Recreation (General Fund) / Operating Transfer to Youth Programs (Recreation Fund)	1004200	750256		200,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Youth Programs (Recreation Fund) / Operating Transfer from Recreation (General Fund)	2560423	650100		(200,000)	
				$ 200,000	$ -

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

Appropriation from available General Fund balance for temporary staffing to support the Afterschool and Summer Youth Programs

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(200,000)
TOTAL:	**(200,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 14:51 MST) — Budget Officer — Feb 10, 2025 Date

Division Director Signature *{optional}* — Date

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

Department Director Signature — Date

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

City of Santa Fe, New Mexico

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

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Date: January 31, 2025

To: Governing Body

From: Erin K. McSherry, City Attorney EM

ACTION:
The City Attorney's Office, Office of Records Custodians, respectfully requests approval of $100,000 in one-time funding from General Fund balances to assist in addressing the City's backlog of review and production of emails and police lapel video, by funding overtime for permanent records specialists (estimating up to $20,000) and a contract for temporary Record Specialists (estimating up to $80,000).

BACKGROUND AND SUMMARY:
In general, the City is required to comply with the Inspection of Public Records Act within three days if a record is accessible within that time, or within 15 days if the record is not immediately available. If a request is "broad or burdensome" the City must respond within a reasonable period of time. This funding will assist in reducing the period of time that is reasonable for broad and burdensome requests for emails and body camera footage. There are over 500 IPRA requests currently pending, including 253 requests for video; the five longest-pending requests for emails require a review of over 40,000 emails; and there are 85 total requests for emails pending.

Providing some funds for overtime for current staff will take advantage of their existing background checks and training. Temporary employees hired through a temp agency will be trained to review emails, which does not require a background check or special access to law enforcement records.

FUNDING SOURCE:
Fund Name/Number: General Fund/100
Munis Org Name/Number: City Attorney/1002550
Munis Expenditure Object Name/Number: Overtime/501400 and Professional Contracts/530300

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
City Attorney's Office	2/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Overtime	1002550	501400		20,000	
2) Professional Contracts	1002550	510300		80,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 100,000	$ -

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

Appropriation from available General Fund balance for: 1) overtime costs in the Office of Records Custodians; and

2) contracted temporary Records Specialist positions, both in order to assist in addressing the current backlog of public

records requests

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(100,000)
TOTAL:	**(100,000)**

Andy Hopkins — 2/5/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 09:50 MST) — Feb 10, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico

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

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Date: January 29, 2025

To: Governing Body

Via: Randy Randall, Interim City Manager

From: Emily K. Oster, Finance Director

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) to Allocate One-Time Funding from Available General Fund Balances in the Amount of $400,000 to Fund a Contract for Oversight and Project Management for Capital Outlay Funding Deployment (Emily K. Oster, Finance Director, ekoster@santafenm.gov).

BACKGROUND AND SUMMARY:
The City is in the process of deploying over $100 million in capital outlay dollars from diverse funding sources including state Legislative appropriations, bond proceeds, City one-time appropriations from revenue earned over budgeted estimates and accumulated fund balances, and unspent prior year capital appropriations (i.e. carryforwards).

The Public Works Department notes that this is the most productive capital program that the City has ever had. The unusually large amount of capital outlay spending in process is attributed to diligent work to apply for and receive Federal and State grant funds available at unprecedented levels, and receipt of several years of State legislative grants in a compressed timeline as the City caught up on annual audits.

Some funds, such as Legislative appropriations and bond proceeds, have strict timelines and parameters for their expenditure and project completion. The current level of funding is significantly higher than the City has managed in recent years. Consequently, City staff face the challenge of prioritizing, managing, and expending a large volume of funds in a timely manner, all while delivering the high-quality projects that City residents and the State Legislature expect and deserve. With limited time to spend the money, the Finance Department needs a well-defined strategy to prioritize and achieve results quickly.

The Public Works Department reports that they have a process to prioritize projects to meet the Governing Body's direction in the publicly adopted ICIP, realization of elected officials' priorities, public requests for amenities and repairs, expiration dates of funding, compliance demands and existing infrastructure condition.

This BAR request would fund contractual services to provide oversight and strategic project management to the Finance Department for the deployment of capital funds. Contracting with a vendor that has this specialized expertise will help the Finance team effectively and efficiently administer capital funding.

The scope of work for the proposed contract is expected to include some or all of the following activities:

- Facilitating the development of a strategic plan for the ongoing prioritization, management, and oversight of projects funded by various capital sources within a timeline that aligns with the City's strategic goals.
- Helping City personnel clearly articulate priorities for capital deployment, the metrics used to measure performance, how each project contributes to the overall accomplishment of the goal, and reviewing the cost, schedule and sequencing of projects over time to optimize resource use.
- Guiding the development of a strategic framework outlining processes for sequencing projects to meet program objectives, while incorporating individual project evaluation criteria such as expected ROI/impact, cost, schedule duration, resource requirements, stakeholder needs, etc.
- Developing and documenting a process to ensure that the Finance Department maintains a complete and accurate listing of all funded projects and their designated funding sources, including documentation of the objectives and requirements of each funding source.
- Creating a process for optimizing the project list that prioritizes projects into waves according to planned sequencing.
- Cultivating a workload prioritization process to be utilized for legislative grant management, procurement and contracting, timing of future bond sales, and other Finance Department activities to ensure that the oldest funding appropriations are expended first and to prevent any loss of previously allocated funding.
- Performing an analysis of regional construction labor market capacity. At a high level, this could entail analyzing labor capacity in the market to deliver the portfolio of infrastructure projects the City plans to complete by investigating skilled labor requirements for the project portfolio in comparison with the regional availability of skilled labor.
- Creating a communications plan to ensure that stakeholders throughout City government understand financial parameters, funding sources, and prioritization strategies for capital outlay.

FUNDING SOURCE:
Fund Name/Number: General Fund/100
Munis Org Name/Number: Finance Administration/1001501
Munis Expenditure Object Name/Number: Professional Contracts/510300

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Finance / Administration	2/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Professional Contracts	1001501	510300		400,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 400,000	$ -

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

Appropriation from available General Fund balance for capital outlay deployment oversight and project management

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(400,000)
TOTAL:	**(400,000)**

Andy Hopkins — 2/5/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 09:59 MST) — Feb 10, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe New Mexico
Memorandum

DATE: February 4th, 2025

TO: Governing Body

VIA: Emily Oster, Finance Director EKO
Alexis Lotero, Assistant Finance Director AL
Sam Burnett, Facilities Division Director SB
David Jaramillo, Fleet Section Manager DJ

FROM: Juan Tapia III, Fleet Mechanic Supervisor

RE: One-Time Funding Request

ITEMS AND ISSUE:
Finance/ Fleet Management Division Request the Approval of Budget Amendment Resolution (BAR) in the Amount of $300,000 from One-Time Funding Available in the General Fund Balance for the Removal of the Siler Road City Yards Fuel Station. (David Jaramillo, Fleet Section Manager; dmjaramillo@santafenm.gov and Sam Burnett, Facilities Division Director; jsburnett@santafenm.gov)

BACKGROUND AND SUMMARY:
Finance/Fleet Management Division is requesting $300,000 for the removal of the underground storage tanks, testing of soil as required by NMED, backfill with compaction, and a 4-inch layer of blacktop. The City of Santa Fe no longer utilizes this fuel station as we have transitioned to the WEX Fuel program implemented in June of 2024.

ACTION REQUESTED:
Finance/Fleet Management Division respectfully requests the approval of funds for the removal of the underground storage tanks of the Siler Road City Yards Fuel Station.

FUNDING SOURCE:

Fund Name/Number: FACILITIES/320
Munis Org Name/Number: FaciltyCIP/3209980
Munis Obj Name/Number: WIP Design/572960 $30,000, WIP Construction/572970 $270,000
Amount: $300,000

ATTACHEMENTS:
BAR

Signature: David Jaramillo (Feb 5, 2025 10:11 MST)

Email: dmjaramillo@santafenm.gov

Signature: ALEXIS LOTERO (Feb 5, 2025 16:32 MST)

Email: aclotero@santafenm.gov

Signature:

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

Signature: Emily K. Oster

Email: ekoster@santafenm.gov

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

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

DEPARTMENT / DIVISION NAME	DATE
Finance / Fleet Management & Public Works / Facilities Division	2/10/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Design	3209980	572960		30,000	
WIP Construction	3209980	572970		270,000	
Fleet (General Fund) / Capital Transfer to Facilities CIP Fund	1001650	760320		300,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Facilities CIP Fund / Capital Transfer from Fleet (General Fund)	3209980	660100		(300,000)	
				$ 300,000	$ -

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

Appropriation from available General Fund balance for removal of the underground fuel storage tanks at the Siler Road Fuel Station, soil testing as required by the NM Environment Department, soil backfill/compaction and blacktop cover

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(300,000)
TOTAL:	**(300,000)**

Andy Hopkins — 2/10/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 10:43 MST)
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

Feb 11, 2025

City of Santa Fe, New Mexico

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

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

MEMORANDUM

Date: January 21, 2025

To: Finance Committee and Governing Body

From: Bernadette Salazar, HR Director

Through: Randy Randall, Interim City Manager
Randy Randall (Jan 21, 2025 16:20 MST)
Emily Oster, Finance Director

Re: Budget Adjustment Resolution (BAR)

BACKGROUND AND SUMMARY:

The Human Resources Department and the City Attorney's Office is requesting to have the City of Santa Fe's Personnel Rules/Regulations and Policies and administrative policies for employees reviewed by an employment law attorney for compliance and modernization. This process will also include feedback on potential changes from employees, supervisors, and union leadership. Any changes to the Personnel Rules/Regulations and Policies require approval by the Governing Body.

ACTION REQUESTED:

Request Approval of a Budget Adjustment Resolution (BAR) in the amount of $150,000 from one-time funding from available general fund balances.

FUNDING SOURCE:

One-time funding from available general fund balances.

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

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

DEPARTMENT / DIVISION NAME	DATE
Human Resources	2/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Legal Services	1000231	510200		150,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 150,000	$ -

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

Appropriation from available General Fund balance for contracted employment law attorney services to assist in reviewing the City's Administrative Policies and Personnel Rules, Regulations and Policies

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(150,000)
TOTAL:	**(150,000)**

Andy Hopkins — Prepared By *{print name}* — 2/5/2025 Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 09:59 MST) — Budget Officer — Feb 10, 2025 Date

Division Director Signature *{optional}* — Date

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

Department Director Signature — Date

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

City of Santa Fe, New Mexico
Memorandum

DATE: **January 23, 2025**

TO: **Governing Body**
Finance Committee

FROM: **Daniel Hernandez, Director** DAH
Metropolitan Redevelopment Agency
dahernandez@santafenm.gov

RE: **Budget Amendment Resolution – One-Time Funding**

Item for Consideration
Request for Approval of Budget Amendment Resolution (BAR) in the Amount of $75,000 for Midtown redevelopment project management and $60,000 for administrative management.

Funding Source and Request Amount
$ 75,000: One-time funding from available *100*-Fund Balances
$ 60,000: One-time funding from available *100*-Fund Balances
$135,000: Total

Reviews and Approvals:
Finance Committee
Governing Body

Background
Presently, the Metropolitan Redevelopment Agency (MRA) is operating with a single full-time staff person, the Director. The MRA has approval for one additional full-time staff person, an Asset Development Manager. The person has been identified and will commence working in the MRA on February 03, 2025. Because of the significant policy direction to dispose of Midtown property for redevelopment, and to reduce or eliminate operating expenses related to maintaining Midtown property within the city-owned real property asset portfolio, additional project and administrative management assistance is desperately needed.

The MRA is responsible for implementing the Midtown Redevelopment Plans, and based on direction provided by the Governing Body and the mayor's administration, the MRA has been tasked with several critical redevelopment tasks to be commenced and completed in 2025.

Historically, the Midtown redevelopment team has included an external consultant with deep expertise in real estate finance, planning, and development, and public-private partnerships. The primary purpose for the $75,000 request is to maintain and establish the necessary professional project management and real estate expertise to implement several key Phase 1 redevelopment activities at Midtown, including:

- Draft, issue and administer RFPs and procurement process for Affordable Housing
- Draft, issue, and administer RFPs and procurement process for Mixed-Use Development

- Oversee and advise on the reuse of the Midtown Performing Arts Center
- Researching and analyzing financial mechanisms for public infrastructure and Right of Way development at Midtown
- Oversee and advise on redevelopment area district finance and planning

Presently, the MRA does not have administrative management capacity. The primary purpose for the $60,000 request is to secure a contractor to assist in a variety of critical tasks related to a plethora of standard city administrative processes, as well as administrative tasks with project management staff and consultants. The current proposal is for an Administrative Manager position to become permanent as part of this MRA FY26 budget.

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

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

DEPARTMENT / DIVISION NAME	DATE
Metropolitan Redevelopment Agency	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Professional Contracts	2120128	510300		75,000	
2) Professional Contracts	2120128	510300		60,000	
1-2) Economic Development (General Fund) / Transfer to Metro Redevelopment Agency (Econ Dev Fund)	1002800	750212		135,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
1-2) Metro Redevelopment Agency (Econ Dev Fund) / Transfer from Economic Development (General Fund)	2120128	650100		(135,000)	
				$ 135,000	$ -

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

Appropriation from available General Fund balance for: 1) Midtown Redevelopment project management services; and

2) administrative/management support for the Metropolitan Redevelopment Agency

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(135,000)
TOTAL:	**(135,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 11:05 MST) — Budget Officer — Feb 10, 2025 Date

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

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

City of Santa Fe, New Mexico
Memorandum

DATE: **January 14, 2025**

TO: **Governing Body**
Finance Committee

FROM: **Jennifer LaBar-Tapia, Santa Fe Regional Film Office Director**
jllabartapia@santafenm.gov, 505-955-6216.

JLT
JLT

RE: **One-time funding for the "City Backlot Set" and Lease for Office Space for the Santa Fe Regional Film Office**

ITEM AND ISSUE:
Request for Approval of Budget Amendment Resolution (BAR) in the Amount of $250,000.00 to go towards the construction of a City Backlot Set.

Committee's Review:
Finance Committee
Governing Body

BACKGROUND AND SUMMARY:

Seeking funding for building infrastructure to develop a full-service film backlot facility for training and production use to build a skilled New Mexico film crew base with hands-on training through building a film and television city street backlot. In partnership with Santa Fe Community College/Mosaica (SFCC Foundation), Santa Fe County, Stagecoach Foundation, and IATSE 480 (NM local film crew union), this proposal is to coordinate partners, funding, and program teams to devise, develop, and build the infrastructure for a set construction training program that builds a "City Street Backlot" built through hands-on training. Santa Fe Community College has identified 50 acres for a city street backlot to be built by New Mexico resident students. IATSE Local 480 has committed to provide all the trainers and provide equipment and tools for the mill for construction training for students to use for hands-on learning for the first phase.

Participants will gain 15 days of 30 towards IATSE 480 union membership. The backlot will be available for future film student use as well as for rent to television and film productions, with proceeds going to the SFCC Foundation to provide ongoing fiscal support of SFCC's Film & Digital Media Arts (FDMA) and Building Trades and Sustainability programs. Additionally, SFCC will create a newly developed certificate in Set Construction, an inter-departmental collaboration between SFCC's FDMA & Building Trades departments. Students in this certificate program will get hands-on training in set construction while continuing the building of the facades and city street. The Set Construction Certificate will equate to 15 days of 30 toward union membership with IATSE 480.

All parties (SFFC/Mosaica, Stagecoach and IATSE 480) have entered into a MOU, approved October 2024.

Infrastructure:

The city street backlot will be industry caliber, providing students with hands-on training within a true to life work environment and culture while attracting film and tv productions to both rent and hire local film crew. Setting up the infrastructure of the backlot will enable the set construction training program to be competitive, sustainable, and serving production needs. Infrastructure needed; bringing electric meters and water for fire suppression down to the site, auguring telephone poles for wind resistance of facades, sidewalks and street, and foundation with metal building for storage, mill, and interior location for meeting State Film Qualifying Production Facility Backlot Requirements. Total cost of the backlot is $4,300,000.00. Santa Fe County has approved $1,000,000.00 through ARPA funds (approved December 2024). Request from the City is $250,000.00.

Qualifying Production Facility (QPF) Requirements for a Backlot:

Per the New Mexico Film Office, a “QPF” is a 5% uplift to the base 25% rebate for filming that uses any portion of facilities with the designation of “Qualified Production Facility”. This backlot will meet all requirements to be a “QPF”. This city backlot will be the only backlot set of its kind in the state, adding to Santa Fe’s robust film resources of nine soundstages and seven western sets, with a 30% film incentive.

PROCURMENT METHOD:

CONTRACT NUMBER:

FUNDING SOURCE: 2607000.510400

ACTON REQUESTED: City contribution of $250,000.00 to go towards the completion of this project.

BACKGROUND AND SUMMARY:
In September 2024, the Santa Fe Film Office transitioned from the County to City management. As a result of this move, the office lost its previous larger space and now requires a new appropriately sized location to continue serving the film industry and expansion of the office.

FUNDING SOURCE: 2607000 562550

PROCURMENT METHOD:

CONTRACT NUMBER:

ACTON REQUESTED: To ensure the Film Office has suitable workspace, we are requesting one-time allocation of $40,000.00 to cover rent costs. This funding will allow the office to secure a functional space that meets operational needs.

Signature: Jennifer LaBar-Tapia
Jennifer LaBar-Tapia (Jan 28, 2025 14:17 MST)

Email: jllabartapia@santafenm.gov

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

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

DEPARTMENT / DIVISION NAME	DATE
Santa Fe Film Office	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Grants & Services	2607000	510400		250,000	
2) Land / Building Rental	2607000	562550		40,000	
1-2) Economic Development (General Fund) / Transfer to Santa Fe Film Office	1002800	750260		290,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
1-2) Santa Fe Film Office / Transfer from Economic Development (General Fund)	2607000	650100		(290,000)	
				$ 290,000	$ -

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

Appropriation from available General Fund balance for: 1) City contribution to the construction of necessary infrastructure to develop a full-service film backlot facility; and 2) leased office space for the Santa Fe Film Office

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(290,000)
TOTAL:	**(290,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 15:25 MST) — Budget Officer — Feb 10, 2025 Date

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

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

BAR Memo SFF1_BackLot & space lease RFS

Final Audit Report 2025-02-10

Created:	2025-02-10
By:	ERMINIA TAPIA (emtapia@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEgx2yJps9HGUcNEy51YGttfj0DFTrqnm

"BAR Memo SFF1_BackLot & space lease RFS" History

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Agreement completed.
2025-02-10 - 10:25:29 PM GMT

Powered by Adobe Acrobat Sign

City of Santa Fe, New Mexico
Memorandum

DATE: January 25, 2025

TO: Governing Body

VIA: Randy Randall, Interim Community Development Director RR
Loretta Olguin, Business Operations Manager LSO

FROM: Johanna Nelson, Economic Development Director, Interim Housing Director JN

SUBJECT: One-Time Funding Request for the Office of Economic Development to Support, Strengthen and Diversify Santa Fe's Economy

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ITEM AND ISSUE:

1. **Increase Staff Capacity:** The Office of Economic Development (OED) requests your review and approval of one-time funding from the available General Fund Balance to create term positions that will enhance the office's capacity to deliver services aligned with the missions of OED and the Community Development Department. Specifically, OED requests funding for an Economic Development Specialist ($125,000), a Financial Empowerment Center Coordinator ($100,000), and the continued support of a Contract and Grant Administrator shared by OED and the Office of Affordable Housing ($100,000).

2. **Small Business Crime Mitigation and Security Grants:** The Office of Economic Development (OED) is requesting one-time funding ($250,000) to establish a grant program aimed at supporting small businesses in implementing crime mitigation and protection measures. This funding will assist businesses in enhancing safety, reducing vulnerability to crime, and fostering a more secure environment for employees, customers, and the community and allow them to grow and expand. The program will be supported by the Community Services Department.

3. **Small Business Development Support:** The Office of Economic Development (OED) is requesting $225,000 in one-time funding to support two key initiatives that will enhance the local economy and strengthen small businesses in Santa Fe. The funding includes $150,000 for a Buy Local Initiative to encourage residents and visitors to prioritize local businesses, and $75,000 for continued support of the South Side Feria, which provides an accessible market space for entrepreneurs and fosters community engagement.

4. **Workforce Development Support:** The Office of Economic Development (OED) is requesting $750,000 in one-time funding to continue supporting programs that strengthen workforce development and bolster the local economy. This includes $250,000 for the Santa Fe Community College Trades and Certifications Program, which equips residents with valuable skills for in-demand careers, and $500,000 for the Santa Fe Public Schools Work-Based Learning Intern Program, which provides students with hands-on experience and pathways to local employment opportunities.

5. **Support Office Rent for Community Services Department:** The Office of Economic Development (OED) is requesting $96,000 in one-time funding to cover the annual office rent paid by OED on behalf of the Community Health and Safety Department. This funding will ensure the continuation

of critical support services provided by Community Health and Safety without impacting OED's ability to fund its own economic development initiatives.

BACKGROUND AND SUMMARY:

1. **Increase Staff Capacity:** We are requesting $325,000 to support three term positions: an Economic Development Specialist ($125,000), a Financial Empowerment Center Coordinator ($100,000), and the continuation of a Contract and Grant Administrator shared with the Office of Affordable Housing ($100,000). These positions are essential to addressing growing service demands and ensuring OED can effectively deliver on its mission to foster economic growth, financial empowerment, and housing stability.

   This allocation will significantly increase OED's capacity to serve the community by supporting businesses, advancing workforce initiatives, and securing external funding. Additionally, the funding will enhance administrative support to ensure program stability and continuity, benefiting residents and the broader community for years to come.

   - **Economic Development Specialist – South Side:** This position will provide dedicated business support services to residents and businesses on the South Side of Santa Fe.
   - **Financial Empowerment Center Coordinator:** This role will manage and support the Financial Empowerment Center, funded by a current OED grant, to deliver financial literacy programs to Santa Fe residents.
   - **Contracts and Grants Administrator:** This position will assist both the Office of Economic Development (OED) and the Office of Affordable Housing (OAH) in managing and administering over $6 million in grants and contracts.

2. **Small Business Crime Mitigation and Security Grants:** OED is requesting $250,000 to establish a grant program focused on crime mitigation and security protection for small businesses in Santa Fe. The program will provide financial support for security improvements such as enhanced lighting, security cameras, locks, and other protective measures that reduce vulnerability to crime. By addressing these safety concerns, the program will help businesses create safer environments for their employees, customers, and neighborhoods while fostering economic stability and growth.

   This initiative aligns with OED's mission to support the local business community and strengthen Santa Fe's economic landscape**.** By collaborating with the Community Services Department, the program will leverage shared resources and expertise to maximize impact. Ensuring the safety of small businesses is essential to their ability to operate, grow, and contribute to the local economy, and this grant program represents a proactive step toward addressing this need.

3. **Small Business Development Support:** The proposed $150,000 *Buy Local* Initiative aims to promote and incentivize shopping at local businesses through targeted marketing campaigns, events, and collaborations with local business owners. This initiative will increase awareness of the benefits of shopping locally, helping small businesses recover and grow while keeping economic activity within the Santa Fe community.

   Additionally, $75,000 is requested to continue supporting the South Side Feria, a successful community-driven market that provides opportunities for small businesses and entrepreneurs to showcase their goods and services. The Feria also serves as a hub for cultural celebration and engagement, strengthening community ties and supporting economic activity on the South Side of Santa Fe. Together, these initiatives will provide vital support to small businesses, increase consumer engagement, and bolster the local economy.

4. **Workforce Development Support:** The Office of Economic Development (OED) has identified one-time funds available to sustain key workforce development programs that are vital to the long-term

economic health of Santa Fe. The Santa Fe Community College Trades and Certifications Program supports residents in acquiring technical skills and professional certifications in high-demand trades, addressing local workforce shortages and enabling participants to secure well-paying jobs. The requested $250,000 will ensure the program continues to provide accessible training opportunities for Santa Fe's workforce.

The Santa Fe Public Schools Work-Based Learning Intern Program connects high school students with local businesses for internships, giving students practical experience, career exploration opportunities, and a direct pathway to employment in Santa Fe. The requested $500,000 will allow the program to expand, benefiting more students and businesses while fostering a stronger connection between education and the local economy. Together, these initiatives will enhance the skills of Santa Fe's workforce, support small businesses, and create sustainable economic growth for the community.

5. **Support Office Rent for Community Services Department:** The Office of Economic Development (OED) currently covers the annual office rent for the Community Health and Safety Department, which provides essential services that directly benefit the Santa Fe community. The requested $96,000 will ensure that rent expenses are covered for the year, allowing Community Health and Safety to focus resources on delivering critical programs and services.

   By covering this expense, OED has played a key role in supporting the work of Community Health and Safety, which contributes to the overall well-being and stability of the community. Securing this funding will allow OED to maintain this financial support while continuing to focus on its mission to bolster economic growth and sustain key initiatives for Santa Fe's businesses and residents.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from General Fund 100

1. **Increase Staff Capacity:**

Fund Name/Number: Economic Development/212
Munis Org Name/Number: 2122800
Munis Obj Name/Number: 500750
Amount: $325,000

2. **Small Business Crime Mitigation and Security Grants:**

Fund Name/Number: Economic Development/212

Munis Org Name/Number: 2122800
Munis Obj Name/Number: 510400
Amount: $250,000

3. **Small Business Development Support:**

Fund Name/Number: Economic Development/212
Munis Org Name/Number: 2122800
Munis Obj Name/Number: 510310
Amount: $225,000

4. **Workforce Development Support:**

Fund Name/Number: Economic Development/212
Munis Org Name/Number: 2122800
Munis Obj Name/Number: 510300

Amount: $750,000

5. **Support Office Rent for Community Services Department:**

Fund Name/Number: Economic Development/212
Munis Org Name/Number: 2122800
Munis Obj Name/Number: 510300
Amount: $96,000

ATTCHMENTS:
BAR

Signature: Johanna Nelson (Feb 5, 2025 19:17 MST)

Email: jcnelson@santafenm.gov

Signature: Loretta S. Olguin

Email: lsolguin@santafenm.gov

Signature: Randy Randall (Feb 10, 2025 08:24 MST)

Email: rrandall@santafenm.gov

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

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

DEPARTMENT / DIVISION NAME	DATE
Office of Economic Development	2/10/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Full-Time Temporary Salaries	2122800	500750		325,000	
2) Grants & Services	2122800	510400		250,000	
3) Service Contracts	2122800	510310		225,000	
4) Professional Contracts	2122800	510300		750,000	
5) Professional Contracts	2122800	510300		96,000	
1-5) Economic Development (General Fund) / Transfer to Economic Development Fund	1002800	750212		1,646,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
1-5) Economic Development Fund / Transfer from Economic Development (General Fund)	2122800	650100		(1,646,000)	
				$ 1,646,000	$ -

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

Appropriations from available General Fund balance for: 1) term/temporary positions to enhance the Office of Economic Development's (OED) service capacity, including an Economic Development Specialist, a Financial Empowerment Center Coordinator, and a Contract and Grants Administrator {shared with Affordable Housing}; 2) small business crime mitigation and security grants; 3) small business development support; 4) workforce development support; and 5) annual office space rental costs paid by OED on bahalf of the Community Health and Safety Department

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(1,646,000)
TOTAL:	**(1,646,000)**

Andy Hopkins 2/10/2025
Prepared By *{print name}* Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 10:42 MST) Feb 11, 2025
Budget Officer Date

Division Director Signature *{optional}* Date

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

Department Director Signature Date

N/A
City Manager *{≤ $60,000}* Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 29, 2025

TO: Governing Body
Finance Committee
Quality of Life Committee
Public Safety Committee

VIA: Randy Randall, Interim City Manager
Randy Randall (Jan 30, 2025 15:32 MST)
Paul Joye, Chief of Police
Paul Joye (Jan 29, 2025 18:36 MST)

FROM: Ben Valdez, Deputy Chief of Police
B. Valdez, DC (Jan 29, 2025 18:31 MST)

ITEM AND ISSUE:
Request for Approval of Budget Amendment Resolution (BAR) in the amount of $837,000 to be utilized for purchasing automated traffic enforcement equipment and evidence equipment. Ben Valdez, Deputy Chief of Police, bpvaldez@santafenm.gov, 505-955-5040.

BACKGROUND AND SUMMARY:

The Police Department has some equipment needs to address traffic safety concerns in our community and evidence equipment that is required for day-to-day operations.

The funding will be used for the following:

- To begin purchasing equipment and/or a subscription for automated traffic enforcement for red light, speed and noise cameras.
- To purchase evidence dryers to replace our current equipment. This will allow staff to properly and safely dry clothing items that have body fluids. This an industry standard for evidence handling and allows clothing to be submitted into evidence.
- To purchase mobile fingerprint scanners for use in the field to identify unknown persons that are arrested or unknown victims that are unable to be identified.
- To purchase narcotics court recognized testing equipment to minimize the potential of exposing field personnel to controlled substances, including substances suspected of being fentanyl.

The Police Department will continue to work with the Finance Departments to plan for budgeting the operating cost for the automated traffic enforcement equipment.

All other purchases will be a one-time cost for the equipment purchase, and maintenance of the one-time equipment can be observed within our budgeted expense.

ACTION REQUESTED:
The Santa Fe Police Department respectfully requests your review and approval.

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

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

DEPARTMENT / DIVISION NAME	DATE
Police Department	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Equipment & Machinery	1000310	570500		750,000	
2) Equipment & Machinery	1000310	570500		30,000	
3) Inventory Exempt Equipment	1000310	572400		30,000	
4) Inventory Exempt Equipment	1000310	572400		27,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 837,000	$ -

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

Appropriation from available General Fund balance for: 1) initial purchases of equipment and contracted software/services for automated traffic enforcment relating to red light/speed/noise cameras; 2) evidence dryers for preparation of clothing containing bodily fluids for analysis; 3) mobile fingerprint scanners for identification of unknown persons in the field; and 4) narcotics testing equipment to reduce the potential of personnel exposure to dangerous substances, e.g. fentanyl

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(837,000)
TOTAL:	**(837,000)**

Andy Hopkins 1/30/2025
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Department Director Signature Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 15:23 MST) Feb 10, 2025
Budget Officer Date

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

N/A
City Manager *{≤ $60,000}* Date

BAR Memo POL1_various RFS

Final Audit Report 2025-02-10

Created:	2025-02-10
By:	ERMINIA TAPIA (emtapia@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAp44I3oeOMKrUPh8xZkdkaqbTzXJs0Pax

"BAR Memo POL1_various RFS" History

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CITY OF SANTA FE

Date: January 16, 2025

To: Governing Body

Via: Regina Wheeler, Public Works Department Director RW (Jan 19, 2025 18:00 MST)
Brian Stinett, Recreation Division Director Brian Stinett (Jan 17, 2025 15:12 MST)

From: Sam Burnett, Facilities Division Director JOHN BURNETT (Jan 17, 2025 14:48 MST)

Subject: Genoveva Chavez Stucco Replacement – One Time funding

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ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $1,500,000 in One Time Funding From Fund 216 Gross Receipts Tax for New Stucco on the Genoveva Chavez Community Center. (Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov)

BACKGROUND AND SUMMARY:
We are requesting $1,500,000 for the replacement of the Genoveva Chavez Community Center (GC3) stucco. The Facilities Asset Database indicates that the GC3's stucco is original to the building (1999) and has exceeded its useful life. This stucco has been identified as a "Critical Condition" asset for close to a decade and is in dire need of replacement. The current condition of this stucco puts the building at risk of water intrusion and damage as well as reduces the building's overall operational efficiency. Further delays to this replacement risk damage to the existing stucco and building that would lead to increased costs.

FUNDING SOURCE: FY 25 Mid-Year Funding Allocation from Gross Receipts Tax Fund 216
Fund Name/Number: Facilities/320
Munis Org Name/Number: Facility/3209980
Munis Object Name/Number: WIP Construction/572970
Project ID: FMD2532011

ATTACHMENTS:
Budget Amendment Resolution (BAR)

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Facilities Division	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	3209980	572970	FMD2532011	1,500,000	
Gross Receipts Tax Fund / Capital Transfer to Facilities CIP Fund	2160001	760320		1,500,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Facilities CIP Fund / Capital Transfer from Gross Receipts Tax Fund	3209980	660216		(1,500,000)	
				$ 1,500,000	$ -

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

Appropriation from available Gross Receipts Tax Fund balance for replacement of the stucco at the Genoveva Chavez

Community Center

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
216	(1,500,000)
TOTAL:	**(1,500,000)**

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

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ALEXIS LOTERO (Feb 11, 2025 10:43 MST) — Budget Officer — Feb 11, 2025 Date

CITY COUNCIL APPROVAL

Division Director Signature *{optional}* — Date

City Council Approval Date

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

Agenda Item #:

Department Director Signature — Date

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

CITY OF SANTA FE

Date: January 16, 2025

To: Governing Body

Via: Regina Wheeler
Regina Wheeler (Jan 19, 2025 17:57 MST)
Regina Wheeler, Public Works Department Director

From: Jennifer Morrow, Complete Streets Division Director
Jennifer Morrow (Jan 17, 2025 16:20 MST)

ACTION:
Request Approval of a Budget Amendment Resolution (BAR) to Allocate One-Time Funding from 365 Capital GRT Fund in the Total Amount of $550,000 to FY25 Complete Streets Vehicles Budget for a Replacement Vactor Truck. (Jennifer Morrow, Complete Streets Division Director; jlmorrow@santafenm.gov)

BACKGROUND AND SUMMARY:
Funding will allocate $550,000 to purchase of a new vactor truck for Complete Streets to replace a 2003 year model unit that is beyond useful life. The vactor truck is essential equipment to maintain storm water drains and culverts along City maintained streets. This one-time funding will support Complete Streets to consistently maintain roadway drainage infrastructure to ensure safety and protect public and private property.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Capital GRT Fund 365
Fund Name/Number: GENFUND / 100
Munis Org Name/Number: STR ADMIN /1000471
Munis Expenditure Object Name/Number: Vehicles >1.5 Tons / 571000

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Complete Streets Division	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Vehicles > 1.5 Tons	1000471	571000		550,000	
Streets (1/2% Capital GRT Fund) / Transfer to Streets (General Fund)	3650414	750100		550,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Streets (General Fund) / Transfer from Streets (1/2% Capital GRT Fund)	1000471	650365		(550,000)	
				$ 550,000	$ -

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

Appropriation from available 1/2% Capital GRT Fund balance for replacement of a Vactor truck used in maintaining storm water drains and culverts along City-maintained streets

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(550,000)
TOTAL:	**(550,000)**

Andy Hopkins — 2/6/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 10:52 MST) — Feb 11, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

CITY OF SANTA FE

Date: January 16, 2025

To: Governing Body

Via: Regina Wheeler, Public Works Department Director RW (Jan 19, 2025 18:00 MST)
Maria Tucker, Community Services Division Director Maria Tucker (Jan 17, 2025 14:59 MST)

From: Sam Burnett, Facilities Division Director JOHN BURNETT (Jan 17, 2025 14:46 MST)

Subject: Library ADA and Parking Improvements – One Time funding

---

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $400,000 in One Time Funding From Fund 365 Capital GRT for Infrastructure Available Balance for ADA Sidewalk and Parking Lot Repairs at Southside and LaFarge Libraries. (Sam Burnett, Facilities Division Director; jsburnett@santafenm.gov)

BACKGROUND AND SUMMARY:
Accessible approach and entrance is a Priority Level 1 under the ADA Compliance Requirements. The path of travel at each library contains abrupt vertical edges and/ or unsafe variations. A number of repairs are required at both Southside and LaFarge Libraries for compliance.

At the Southside Library, $300,000 will fund repairs to walkways, ramps and parking lot resurfacing and striping to ensure accessibility to the front entrance from the parking lot and the adjacent bus stop.

At LaFarge, $100,000 will fund parking lot resurfacing and restriping.

FUNDING SOURCE: FY 25 Mid-Year Funding Allocation from Capital GRT Fund 365
Fund Name/Number: Facilities/320
Munis Org Name/Number: FacilityCIP/3209980
Munis Object Name/Number: WIP Construction/572970
Project Ledger: FMD2532012

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Facilities Division	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	3209980	572970	FMD2532012	400,000	
Facilities (1/2% Capital GRT Fund) / Capital Transfer to Facilities CIP Fund	3650432	760320		400,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Facilities CIP Fund / Capital Transfer from Facilities(1/2% Capital GRT Fund)	3209980	660365		(400,000)	
				$ 400,000	$ -

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

Appropriation from available 1/2% Capital GRT Fund balance for parking lot repairs and Americans with Disabilities Act (ADA)-required repairs at the Southside and LaFarge Libraries

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(400,000)
TOTAL:	**(400,000)**

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 10:54 MST) — Budget Officer — Feb 11, 2025 Date

Division Director Signature *{optional}* — Date

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

Department Director Signature — Date

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

CITY OF SANTA FE

Date: January 16, 2025

To: Governing Body

Via: Regina Wheeler, Public Works Department Director RW (Jan 19, 2025 18:01 MST)
Randy Randall, Interim City Manager Randy Randall (Jan 19, 2025 23:38 MST)

From: Sam Burnett, Facilities Division Director JOHN BURNETT (Jan 17, 2025 14:47 MST)

Subject: City Hall / Convention Center Bell Tower Elevator Repair – One Time funding

---

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $200,000 in One Time Funding From Available 365 GRT Capital Fund for Infrastructure to Repair the Bell Tower Elevators between City Hall and the Convention Center. (Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov)

BACKGROUND AND SUMMARY:
We are requesting $200,000 for repairs required to restore service to the City Hall / Convention Center Bell Tower elevators. These elevators have been damaged numerous times by water intrusion into the elevator shaft. This work is likely to include Bell Tower roof repairs, modifications to the walkways leading to the elevators, improvements to grading and drainage in the area, and finally repairs to the damaged elevator electrical equipment.

FUNDING SOURCE: FY 25 Mid-Year Funding Allocation from Capital GRT Fund 365
Fund Name/Number: Facilities/320
Munis Org Name/Number: Facility/3209980
Munis Object Name/Number: WIP Construction/572970
Project ID: FMD2532015

ATTACHMENTS:
Budget Amendment Resolution (BAR)

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Facilities Division	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	3209980	572970	FMD2532015	200,000	
Facilities (1/2% Capital GRT Fund) / Capital Transfer to Facilities CIP Fund	3650432	760320		200,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Facilities CIP Fund / Capital Transfer from Facilities(1/2% Capital GRT Fund)	3209980	660365		(200,000)	
				$ 200,000	$ -

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

Appropriation from available 1/2% Capital GRT Fund balance for repairs to the Convention Center Bell Tower elevators

that have been damaged by water intrusion into the elevator shaft

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(200,000)
TOTAL:	**(200,000)**

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Division Director Signature *{optional}* — Date

Department Director Signature — Date

ALEXIS LOTERO (Feb 11, 2025 10:57 MST) — Budget Officer — Feb 11, 2025 Date

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

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

CITY OF SANTA FE

Date: January 14, 2025

To: Governing Body

Via: Regina Wheeler
Regina Wheeler (Jan 17, 2025 11:36 MST)
Regina Wheeler, Public Works Department Director

From: Melissa McDonald, Parks and Open Space Division Director MMc
MMc

ACTION:
Request Approval of a Budget Amendment Resolution (BAR) to Allocate One-Time Funding from Capital GRT Fund 365 in the Amount of $230,000 to FY25 CIP WIP Construction for West Alameda Culvert Improvements and $780,000 to Parks and Open Space Equipment Replacement.
(Melissa McDonald, Parks and Open Space Division Director; mamcdonald@santafenm.gov)

BACKGROUND AND SUMMARY:
Funding of $250,000 is requested for improvements to the West Alameda Culvert between Siler Road and Nix Lane. During heavy rains in 2024, erosion occurred indicating a need for enhancing channel protection. Construction issues related to the erosion will be addressed under warranty and new design and improvement costs will be shared by stormwater and these one-time funds. The project includes securing a maintenance easement through private property to facilitate City access to maintain the culvert. Design is underway and construction expected to complete in 2025. Cost are based on engineers' estimates with refined estimates to be developed as part of the design work.

Over the past three years, the Parks and Open Space Division has identified $1.5 million in necessary equipment replacements to address aging and obsolete assets. This $780,000 funding request prioritizes essential purchases, including a water truck, work trucks, tractors, and trailers, to enhance safety, maintain service levels, and care for park landscapes. Investing in these items will help the division meet current demands and preserve public spaces for the community's benefit.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Capital GRT / Fund 365

Project Ledger: EPM2323103
Fund Name/Number: 365 / ½ Per GRT
Munis Org Name/Number: Rdwys&Drng / 3650414
Munis Expenditure Object Name/Number: WIP Construction /572970

Fund Name/Number: GENFUND / 100
Munis Org Name/Number: PTW ADMIN / 1004150
Munis Expenditure Object Name/Number: Inventory Exempt / 572400 - $20,000
Munis Expenditure Object Name/Number: Equipment & Machinery / 570500 - $210,000
Munis Expenditure Object Name/Number: Vehicles / 570950 - $550,000

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Parks Division	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) WIP Construction	3650414	572970	EPM2323103	230,000	
2) Equipment < $5,000	1004150	572400		20,000	
2) Equipment & Machinery > $5,000	1004150	570500		210,000	
2) Vehicles < 1.5 Tons	1004150	570950		550,000	
2) Parks (1/2% Capital GRT Fund) / Transfer to Parks (General Fund)	3654150	750100		780,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
2) Parks (General Fund) / Transfer from Parks (1/2% Capital GRT Fund)	1004150	650365		(780,000)	
				$ 1,010,000	$ -

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

Appropriation from available 1/2% Capital GRT Fund balance for: 1) improvements to the W. Alameda culvert between Siler Road and Nix Lane; and 2) various equipment/vehicle replacements to address issues related to aging and obsolete assets, including a water truck, work trucks, tractors and trailers

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(1,010,000)
TOTAL:	(1,010,000)

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 10:59 MST) — Budget Officer — Feb 11, 2025 Date

Division Director Signature *{optional}* — Date

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

Department Director Signature — Date

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

CITY OF SANTA FE

Date: January 14, 2025

To: Governing Body

Via: Regina Wheeler
Regina Wheeler (Jan 17, 2025 11:36 MST)
Regina Wheeler, Public Works Department Director

From: Melissa McDonald, Parks and Open Space Division Director MMc
MMc

ACTION:
Request Approval of a Budget Amendment Resolution (BAR) to Allocate One-Time Funding from Available Gross Receipts Tax Fund 216 Balance in the Total Amount of $270,000 to FY25 Parks and Open Space Service Contracts to Enhance Weed Control and Median Maintenance. (Melissa McDonald, Parks and Open Space Division Director; mamcdonald@santafenm.gov)

BACKGROUND AND SUMMARY:
Funding is being allocated $140,000 to enhance weed control and $130,000 to increase median maintenance. This one-time funding will enable the Parks and Open Space Division to address priority areas, improve service efficiency, and ensure public spaces and medians remain inviting and well-maintained. These enhancements are critical to meeting community expectations this fiscal year.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Gross Receipts Tax Fund
Fund Name/Number: GENFUND / 100
Munis Org Name/Number: PTW ADMIN / 1004150
Munis Expenditure Object Name/Number: Service Contracts / 510310

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Parks Division	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Service Contracts	1004150	510310		270,000	
Gross Receipts Tax Fund / Transfer to Parks (General Fund)	2160001	750100		270,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Parks (General Fund) / Transfer from Gross Receipts Tax Fund	1004150	650216		(270,000)	
				$ 270,000	$ -

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

Appropriation from available Gross Receipts Tax Fund balance for enhanced weed control and medians maintenance

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
216	(270,000)
TOTAL:	**(270,000)**

Andy Hopkins — 2/6/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 11:17 MST) — Feb 11, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

CITY OF SANTA FE

DATE: **February 10, 2025**

TO: **Governing Body**

VIA: **Regina Wheeler, Public Works Department Director** Regina Wheeler
Regina Wheeler (Feb 10, 2025 16:41 MST)

FROM: **James Harris, Airport Director**
James Harris (Feb 10, 2025 16:22 MST)

ACTION:

Request for Approval of New Mexico Department of Transportation Grant Agreement C5243318 in the Total Amount of $4,500,000 for Project 24-I33818 the New Mexico Highway 599 Access Road to the Santa Fe Regional Airport. (James Harris, Airport Director; jcharris@santafenm.gov)

1. Request For Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $4,500,000 from the Legislative Grant to FY25 Airport Revenue and WIP Design and WIP Construction for Capital Project 24-I33818 599 Access Road to the Airport.

BACKGROUND AND SUMMARY:

The 2024 New Mexico Legislature appropriated $4,500,000 for an access road from New Mexico Highway 599 to the Santa Fe Regional Airport.

The Airport's Engineer of Record, Molzen Corben is preparing a quotation and schedule for the design phase. It is expected to issue a purchase order for design of the roadway soon after execution of this agreement and securing a Notice of Obligation from NMDOT. Construction cost and schedule estimates will be developed during the design process. Public engagement will be included in the design process.

FUNDING SOURCE: State of New Mexico Department of Transportation
Fund Name/Number: Airport / 545
Munis Org Name/Number: Airport CIP / 5450407
Munis Expenditure Object Name/Number: WIP Design / 572960 ; WIP Construction 572970

ATTACHMENTS:
Grant Agreement
PLID
BAR

Contract Number: _____
Vendor Number: 0000054360
Control Number: C5243318

STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 93100 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is between the Department of Transportation, hereinafter called the "Department" or abbreviation such as "NMDOT", and City of Santa Fe, hereinafter called the "Grantee". This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2024, SB 275, Chapter 66, Section 33, Subsection 88, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID I3318 NMDOT Control Number C5243318 **$4,500,000**
APPROPRIATION REVERSION DATE: 6/30/2028
Laws of 2024, Chapter 66, Section 33, Subsection 88, Four Million Five Hundred Thousand Dollars and No Cents ($4,500,000), to acquire rights of way for and to plan, design and construct a road connection from the New Mexico highway 599-Jaguar drive interchange to the Santa Fe regional airport for Santa Fe in Santa Fe county.

The Grantee's total reimbursements shall not exceed Four Million Five Hundred Thousand Dollars and No Cents $4,500,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")[1], if applicable, (), which equals () (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

a. must be approved by the applicable oversight entity (if any) in accordance with law; or
b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Santa Fe
Name: David Chapman
Title: Grants Administrator
Address: P.O. Box 909, Santa Fe, New Mexico 87504
Email: dachapman@ci.santa-fe.nm.us
Telephone: 505-955-2012

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 5 Office
Name: Amanda Nino
Title: Capital Outlay District Coordinator
Address: P.O. Box 4127, Santa Fe, NM 87502
Email: Amanda.Nino@dot.nm.gov
Telephone: 505-660-6357

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2028 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. **Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement**

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii) Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. **Early Termination Before Reversion Date Due to Non-appropriation**

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. **Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination**

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (http://cpms.dfa.state.nm.us). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was ~~a~~approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) Twenty (20) days from date of Early Termination; or

(iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded

from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well

as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the

SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

_____
Signature of Official with Authority to Bind Grantee

_____
Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

_____
Date

DEPARTMENT OF TRANSPORTATION

_____
By:

Its: Cabinet Secretary or Designee

_____
Date

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

_____
By: Aaron Frankland or Designee

Its: Deputy General Counsel

_____
Date

IN WITNESS WHEREOF, the parties have executed this Capital Appropriation Project as of the dates set forth below.

CITY OF SANTA FE:

SEE ABOVE

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

GERALYN CARDENAS, INTERIM CITY CLERK

CITY ATTORNEY'S OFFICE:

Kevin L. Nault

Kevin L. Nault (Aug 9, 2024 15:27 MDT)

ASSISTANT CITY ATTORNEY

FINANCE DIRECTOR:

Emily K. Oster

EMILY OSTER

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I.	**Grantee Information**	**II.**	**Payment Computation**
	(Make sure information is complete & accurate)	A.	Payment Request No.
A.	Grantee:	B.	Grant Amount:
B.	Address:	C.	AIPP Amount *(If Applicable)*:
	(Complete Mailing, including Suite, if applicable)	D.	Funds Requested to Date:
		E.	Amount Requested this Payment:
		F.	Reversion Amount (If *Applicable*):
	City State Zip	G.	Grant Balance:
C.	Phone No:	H.	☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)
D.	Grant No:	I.	☐ Final Request for Payment (*if Applicable*)
E.	Project Title:		
F.	Grant Expiration Date:		

III. **Fiscal Year :** _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer or **Fiscal Agent** (*if applicable*)	**Grantee Representative**
Printed Name	Printed Name
Date:	Date:

(State Agency Use Only)

Vendor Code: _____ **Fund No.:** _____ **Loc No.:** _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer	Date	Division Project Manager	Date

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____,_____]
FROM: Grantee: [_____]
Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee
Grant Number: [_____]
Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): [_____]
The Amount of this Notice of Obligation: [_____]
The Total Amount of all Previously Issued Notices of Obligation: [_____]
The Total Amount of all Notices of Obligation to Date: [_____]
Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]
Title: [_____]
Signature: [_____]
Date: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

NMDOT ATTACHMENT A

The City of Santa Fe shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Santa Fe shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.

City of Santa Fe New Mexico

Finance Department

Project Ledger Request Form

Date of Request: 02/07/2025

Project Title: 599 Access Road to Airport

Project Type: ☑ CIP ☑ Grant ☐ Internal Tracking

Project ID: AIR25547515
Grant ID: S2509
Approved By: 2/10/25
Entered By: (Finance Use Only)

Department: Airport Project Manager: James Garduno Ext: _____

Project Date Range: 02/07/2025 to 06/30/2028 ☐ Create Fixed Asset

---

☐ Multi-Funding (complete all funding sources, should equal 100%)

Funding Source: NM DOT C5243318 % of Funding: 100%

MUNIS ORG: 5450407 MUNIS OBJ: 490150 Awarded Amount: $4,500,000

Funding Source: _____ % of Funding: _____

MUNIS ORG: _____ MUNIS OBJ: _____ Awarded Amount: _____

Expense String Phase:

A project must have at least one phase identified, this can be used as an additional level of tracking, for example, CIP - Design, Construction, etc. For Grants can be used as reimbursable types, such as transportation, salaries.

(You can create more than one phase and you can default MUNIS ORGs and OBJs, optional)

Phase: Design MUNIS ORG: 5450407 MUNIS OBJ: 572960

Phase: Construction MUNIS ORG: 5450407 MUNIS OBJ: 572970

Phase: _____ MUNIS ORG: _____ MUNIS OBJ: _____

Contract number: _____ Comments/Other:

GRANTS ONLY:

Grantor Name: DFA approp 13318-NMDOT C5243318 Awarded Amount: $4,500,000

AR Charge Code: 5450407.490150 ☐ Grant funds multiple projects (Complete a form for each project)

Grantor Id: 700000 Federal CFDA (if applicable): N/A

(If grants please provide all grant award documents with form) ☑ Attached Grant Documentation

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

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

DEPARTMENT / DIVISION NAME	DATE
Airport / Airport CIP	2/10/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Design - 599 Access Road	5450407	572960	AIR2554515	500,000	
WIP Construction - 599 Access Road	5450407	572970	AIR2554515	4,000,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NM Department of Transportation	5450407	490150	AIR2554515	(4,500,000)	
				$ -	$ -

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

Legislative Grant with NMDOT C5243318 for Project 24-I3318 to plan, design, construct, a road from NM highway 599 to the Airport in the amount of $4,500,000 . Grant reverts 06/30/2028

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Kelly Bynon — 2/10/2025
Prepared By *{print name}* — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Feb 10, 2025
Budget Officer — Date

Division Director Signature — Date

Finance Director *{≤ $5,000}* — Date

James Harris (Feb 10, 2025 16:22 MST) — Feb 10, 2025
Department Director Signature — Date

City Manager *{≤ $60,000}* — Date

CITY OF SANTA FE

Date: January 30, 2025

To: Governing Body

From: Caryn Grosse, PMP, Public Works Project Manager III

Via: Regina Wheeler, Public Works Department Director RW (Jan 31, 2025 12:50 MST)
Sam Burnett, Facilities Division Director JOHN BURNETT (Jan 31, 2025 11:02 MST)

Subject: On-Call HVAC, Mechanical & Plumbing Services

Vendor Name: B&D Industries, Inc.

Vendor Number: 3970

ACTION:
Request for Approval of a Construction Contract with B&D Industries, Inc. in the Total Amount of $10,818,750 Including NMGRT for On-Call Mechanical and Plumbing Services Through December 31, 2029. (Caryn Grosse, Public Works Project Manager III; clgrosse@santafenm.gov)

CONTRACT NUMBER:
The FY25 Munis contract number is 3250352.

BACKGROUND AND SUMMARY:
The Public Works Department Facilities Division uses on-call services to augment the skills, licensure, and capacity of staff to address facility issues and emergencies in a timely, safe, and compliant manner. The Facilities Division typically maintains on-call contracts for general contracting, mechanical, electrical, plumbing, roofing, remediation, and landscaping services.

In accordance with the Invitation to Bid for City-Wide, On-Call Mechanical and Plumbing Services (ITB# 25041), two (2) responses were submitted from the following Offerors: B&D Industries, Inc., and McDowell Mechanical LLC. Both contractors were responsive, and both have been selected for contract awards.

On-call contracts are not a guarantee of payment. These contracts are only used, and purchase orders issued, as needs arise and funding is available. The $10,818,750 (including 8.1875% NMGRT) maximum for this contract is based on anticipated needs over the next five years.

ATTACHMENTS:
Construction Contract
Certificate of Insurance
CPO Determination

PROCUREMENT METHOD:
The procurement method for this contract is the Invitation to Bid dated 10/11/2024, ITB# 25041.

Chief Procurement Officer (CPO) / Designee: _____ Date: Feb 7, 2025
CPO Comment/Exceptions: _____

FUNDING SOURCE:
Fund Name/Number: Various
Munis Org Name/Number: Various
Munis Object Name/Number: Various

Budget Officer / Designee: Andy Hopkins Date: Feb 5, 2025
Budget Officer Comment/Exceptions: _____

ASSOCIATED APPROVALS:
Does this purchase require any of the following associated approvals? ☒ Yes | ☐ No
(ITT, Vehicles/Fleet, Facilities, Asset or Grant Review)

IT Components included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Construction, Facilities, Furniture, Fixtures, Equipment included? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Capital Asset* or Project ☒ Yes | ☐ No**
Project Ledger #: various
(*will this procurement result in a tangible item that costs more than $5,000?)
(**Capital Projects are new and improvement projects that are going to cost $10,000 or more)
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: Determined by Josie Bolden this is not a Capital Asset

Is this a Grant Funded Purchase? ☐ Yes | ☒ No
Approval: _____ Title: _____ Date: _____
Comment/Exceptions: _____

Department Contract Administrator Contact Info:
Elizabeth L. Kahahane (elkahahane@santafenm.gov)

Item #: _____
Munis Contract #: 3250352_____
ITB #: 25041_____

CITY OF SANTA FE

CONSTRUCTION CONTRACT

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **B&D Industries, Inc.**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the City, through its Governing Body, is authorized to enter into a construction Contract for the project; and

WHEREAS, the City has procured this Contract according to the established State and Local Purchasing procedures for contracts of the type and amount; and

The City and the Contractor hereby agree as follows:

1. Scope of Work

A. The Contractor shall perform the following work:

Mechanical/HVAC:

The work may include all preparation work needed to properly install new HVAC or to repair or upgrade the existing HVAC systems. Work to include, but not be limited to installation of new or relocation of existing diffusers, grilles and registers; installation of all new or relocation of existing vents, flues, and outside air ducts; installation of new or relocation of existing thermostats; installation of new or relocation of supply and return air ducts; installation of new or relocation of existing heating and/or cooling units; and similar, related HVAC work. Work is to include balancing of HVAC systems, including heat loss/ heat gain calculations needed to provide the CFM deliveries for the areas served by the HVAC system. Work may also include the installation concrete pads and surrounding walls for the equipment as well as trenching. Work may include proper weather seal and restoration to exterior duct work and equipment connections. Any repair work to existing structures, roofs, sidewalks, or roads to install the systems is included. Any plumbing or electrical support to make the systems function will be included.

Contractor will provide employees, contractors, or agents to service EPA regulated refrigerants in HVAC units with a valid EPA Section 608 Certification covering the applicable refrigerant. The Contractor/subcontractor will assume responsibility for all EPA fines including those attributable to the Using Agency if the Contactor/subcontractor is found to be illegally, intentionally, or accidently releasing any regulated refrigerant. Prior to working on any regulated refrigerant-containing equipment, the Contractor/subcontractor shall provide a written statement certifying that they will use EPA-certified refrigerant recovery and recycling equipment when applicable.

Plumbing:

The work may include all preparation work needed to properly install new plumbing work, troubleshooting plumbing issues; making repairs to gas lines, sewer lines, water lines; drain cleaning; leak detection; valve replacements, installing fixtures such as faucets, toilets, water fountains; repairing or replacing pumps, boilers and water heating equipment, installation of new plumbing fixtures, water heaters, electric water coolers, sanitizing existing water lines, rodding and clearing of sewer lines, replacement of damaged or defective sewer lines, installation of new domestic water lines, hydrants, fire sprinkler/suppression systems, natural gas work, HVAC and any other plumbing related work.

Other:

Any repair work to existing structures, roofs, sidewalks and roads needed to install the systems is included. Trenching for exterior lines is included as well as patching/paving of roads, buildings and sidewalks that have been demolished in the process of the construction.

Contractor:

Safety shall be of main concern and enforced by the Contractor on site and will be periodically inspected by the City's qualified safety personnel. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them 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 jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the City in connection with the performance of the work covered by this Contract.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required Contract. Journeymen level personnel shall have the ability and necessary skills to diagnosis problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy. Any work involving disconnect or switching of electrical service to a work area shall utilize LOCKOUT/TAGOUT identification practices.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include, labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Replacement systems and related equipment shall meet current minimum "Energy Star" energy conservation standards.

Markups for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) may be negotiated with the City, and approved solely by the City, on a project-by-project basis. Markups cannot be "cost plus a percentage" and must be "cost plus a bulk fee".

The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the City.

Furnishing of submittal date for any/all new equipment and materials as well as O&M's is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This also applies to any/all control systems pertaining to HVAC equipment. This training will be acceptable to the person in charge of the facility and/or the City's Project Manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the City to not interfere with the daily operations of the City or to jeopardize the health, safety or welfare of the employees or general public conducting business with the City.

The Contractor shall be responsible for adherence to the Contract Documents, Construction Documents, Specifications and approved directives. This responsibility shall include, but is not limited to, adherence to Uniform Plumbing Code (UPC), City and state laws, the International Building Code (IBC) and the New Mexico building codes. and other codes, as adopted by the State of New Mexico. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including SMACNA, and ASHRAE standards.

Identification and abatement of asbestos containing materials (ACM) may be performed under separate contracts and is outside the scope of the work of this Contract unless this work is specifically requested in the Task Order and subcontracted.

The Contractor shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

Contractor shall be capable of providing all new or upgrades to the existing plumbing/mechanical service and systems, diagnostic services, perform trouble shooting services for the City, coordinate and supervise plumbing/mechanical services that may include renovations, upgrade and improvement projects and to provide new plumbing/mechanical services. The Contractor shall prepare quotes for all costs and services needed to perform the work required, in compliance with applicable national and state codes. The scope of an individual project may include equipment and fixtures whether attached or not to the building. It can include site and utility work. The utility work can include building geothermal systems. It may also include demolition and abatement projects. It can include security and other low voltage installations with related controls and equipment.

All material shall be new and of the highest quality available for the type of work being performed.

The City reserves the right to purchase materials directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project.

“Material Cost" shall be defined as Manufacturer’s Suggested Retail Price (MSRP). Contractor may, at its sole discretion, provide the City with a bulk rate discount off the Manufacturer’s Suggested Retail Price (MSRP). Bulk rate markups on materials and sub-contractors may be negotiated with and approved by the City’s Facilities Director or Director of Public Works, on a project-by-project basis. Markups cannot be ‘cost plus a percentage’ and must be ‘cost plus a bulk fee’.

If the Contractor is requesting reimbursement for materials used on the work, documentation showing MSRP for the materials must be included when submitting invoices/pay applications.

The City reserves the right to obtain quotes from multiple vendors for each Task Order and award the Task Order to a contractor based on the quotes.

The City reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the City feel it is in its best interest to provide this extraordinary oversight and assistance.

The City reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Contract. Any employee of the Contractor found in violation of any law, while on the City’s property, will be prosecuted.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. City’s trash receptacles will not be used by the Contractor. Sanitary facilities will not be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.

B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools,

construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the City's satisfaction.

C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

D. Storage of materials and construction equipment shall be coordinated with the City. All hazardous and non-hazardous constructions debris shall be removed from the work areas and disposed of at an approved waste disposal site.

Task Order:

Contractor shall accept all Task Orders from the director of the City of Santa Fe Public Works, Facilities Division ("Facilities Director"). Contractor shall accept Task Orders from other City of Santa Fe staff only with written approval of the scope of work, from the Facilities Division Director.

The Contractor shall be required to provide On-Call Mechanical and Plumbing Services for any number of the activities listed under Scope of Work upon the request of the City's Project Managers/Project Administrators or Director of Public Works. When a service is identified, the Requesting Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Contract will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Contract. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) and cost summary to include the work to be performed and the amount of time required for the completion of the project and submit to the City at no cost to the City. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task. Failure to respond to Task Orders may be grounds for termination of this Agreement. The Contractor shall not commence work until the City's Facilities Director or Director of Public Works provides a Notice to Proceed.

If any equipment or building system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information the need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size and type of unit recommended along with any applicable efficiency data. The City's and energy standards will be discussed and taken into consideration when proposing replacement units or systems.

Other Construction Related Terms and Conditions:

Mediation:

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.) except that before any party may select a mediator it must confer in good faith with the other party concerning the selection of a mutually acceptable mediator. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of **sixty (60) days** from the date of notice of mediation session, unless stayed for a longer period by agreement of the parties or court order.

Inspection of Work:

If a Task Order is issued for the purchase of services, the following terms shall apply when applicable:

A. Services 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 the Task Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City or other party to the Task Order during the term of performance of the Work and for as long thereafter as required.

C. The City has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

D. 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 Task Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services does not conform with the requirements, the City may require the Contractor to re-perform the services in conformity with the requirements at no increase in Task Order 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; and
2. reduce the Task Order price to reflect the reduced value of the services performed.

F. 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, the City may:

1. by Agreement 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. cancel the Task Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE TASK ORDER/CONTRACT.

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. 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.

If at any time there is a delay in the critical path of a Task Order due to postponement by the Contractor or a subcontractor, or an increase in the price, or due to the Contractor's failure to perform work according to the schedule approved in the Task Order and Notice to Proceed, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Contract Price.

Permits and Fees:

A. IF APPLICABLE — The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

C. Any Certificates of Inspection, use and occupancy required under law will be delivered to the City upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and City as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly upon receiving a Notice to Proceed issued by the Facilities Director or Director of Public Works and before the first payment application, shall prepare and submit for the City's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values. An updated schedule shall be presented with any change orders, and an updated schedule shall be presented if requested by the City's Project Manager.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the City.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three week look-ahead schedule should be presented at every project meeting.

D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity performs work on the project. The daily reports shall be maintained at the site and be well organized. The City may request copies at any time. The reports may include:

1. report date and who prepared the report;
2. weather conditions – low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. companies present by name and their number of workers, work location, total man hours that day for each company;

4. equipment – type, source, units of work done, location of work, hour meter reading;
5. material brought to site – description, units, quantity, quality, location, time;
6. visitors to site – name, company, time;
7. safety concerns – company, contact, noticed by, work activity, safety issue, requirement, outcome: and
8. quality assurance and control – company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the City a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

A. Work associated with Punch List(s);
B. Testing, balance or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
C. One hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to City;
D. As-Built drawings delivered in AutoCAD or electronic format;
E. Written certification of delivery and stocking of extra material, equipment or components required by the Task Order at a location established by the City;
F. Delivery of all warranties required by the Work;
G. All keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
H. Training of staff on all applicable building systems;
I. All Storm Water Pollution Prevention Permits (SWPPP) have been updated or closed;
J. Utility transfer to City;
K. Operations and Maintenance Manuals;
L. A certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Warranty:

The Contractor shall warrant its work for materials and for workmanship furnished and performed under this Contract for a period of one (1) year minimum from the date of Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems, appliances and work for ninety (90) days from the date of Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the City warranties of equipment offered by the manufacturer.

The award of this Contract is without assurance of quantity or dollar amount of work to be performed.

Minimum Requirements of Qualifications:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in Section 60-13-12, NMSA 1978.

All personnel working on the project and providing services under a Task Order shall be experienced and certified in all areas related to this work and required by this Contract. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

Compensation

A. The total amount payable to the Contractor under this Contract, shall not exceed $10,000,000.00 excluding New Mexico gross receipts tax for the term of this Contract. The New Mexico gross receipts tax levied on the amounts payable under this Contract totaling ($818,750) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Contract, including Alternates (if needed) gross receipts tax and expenses, shall not exceed ($10,818,750). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Contract 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 Contract 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 Contract being amended in writing prior to those services in excess of the total compensation amount being provided.**

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

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

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Contracts**. This contract allows the City to make payment within 45 days after submission of an undisputed request for payment for contracts funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

2. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **December 31, 2029**. The City reserves the right to renew this contract on an annual basis by mutual agreement not to exceed a total of ten (10) years in accordance with NMSA 1978, Sections 13-1-150 through 152.

3. Termination

A. Grounds. The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

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 Contract 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 Contract 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 Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 5, "Appropriations," of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, 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 Contract. 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 CONTRACT.*

4. Appropriations

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the Governing Body, this Contract shall terminate immediately upon written

notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

5. Status of Contractor

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

6. Construction Contract Performance and Payment Bond

A. When a construction contract is awarded in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Award of the contract shall be made pursuant to the Procurement Code in the following manner:

1. a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract; and

2. a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

7. Assignment

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

8. Subcontracting

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

9. Release

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

10. Confidentiality

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

11. Product of Service -- Copyright

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

12. Conflict of Interest; Governmental Conduct Act

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

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

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

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

13. Amendment

A. This Contract 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 Contract 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 Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Change Orders

A. Changes. The Contractor may only make changes or revisions within the Scope of Work as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Facilities Director or

Director of Public Works. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1. Deliverable requirements, as outlined in the Scope of Work;
2. Due date of any Deliverable, as outlined in the Scope of Work;
3. Compensation of any Deliverable, as outlined in the Scope of Work;
4. Contract compensation, as outlined in Article 2; or
5. Contract termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1. The Project Manager shall draft a written Change Request for review and approval by the Facilities Director or Director of Public Works to include:
   (a) the name of the person requesting the change;
   (b) a summary of the required change;
   (c) the start date for the change;
   (d) the reason and necessity for change;
   (e) the elements to be altered; and
   (f) the impact of the change.
2. The City Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the City Manager are final. Change Requests, once approved, become a part of the Contract, and become binding as a part of the original Contract.

15. Merger

This Contract 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 contract.

All terms and conditions of **ITB #25041** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

16. Penalties for violation of law

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

17. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program

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

18. Applicable Law

The laws of the State of New Mexico shall govern this Contract, 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, section 38-3-2. By execution of this Contract, 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 Contract.

19. Workers Compensation

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

20. Other Insurance

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, 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 Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, 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 Contract are sufficient to cover the obligations of Contractor hereunder.

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

21. Records and Financial Audit

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

22. Indemnification

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

23. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract 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 Contract modifies or waives any provision of the New Mexico Tort Claims Act.

24. Invalid Term or Condition

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

25. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract 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 Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

26. Notices

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

To the City:
Caryn Grosse, PMP
Facilities Project Manager III
City of Santa Fe
2651 Siringo Rd, Bldg E/PO Box 909
Santa Fe, NM 87504
clgrosse@santafenm.gov
505-955-5938

To the Contractor:
Christopher Giovenco
Director, Service
B&D Industries, Inc.
9720 Bell Avenue SE
Albuquerque, NM 87123
cgiovenco@banddindustries.com
505-559-2585

27. Authority

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

28. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

29. Final Payment

Final payment, constituting the entire unpaid balance of the Contract sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

30. Schedule

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit a progress schedule covering project operations for the 30-day Contract period. This progress schedule shall be of the type generally referred to as a Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the contractor to implement the CPM shall be borne by the Contractor and are part of their Contract.

31. General and Special Provisions

A. Terms used in this Contract which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive illegal payments.

C. The Contractor warrants that the Contractor 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 Contract.

D. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

E. Gender, Singular/Plural. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

F. Captions and Section Headings. The captions and section headings contained in this Contract are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Contract.

G. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Contract shall be attached to this Contract at the time of execution and are hereby incorporated by reference as though set forth in full in this Contract to the extent they are consistent with its conditions and terms.

H. Separability. If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event, it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby.

I. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

J. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

K. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

L. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

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

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE: _____

CONTRACTOR: B&D Industries, Inc.

Clinton Beall (Jan 17, 2025 08:53 PST)
_____
CLINTON BEALL, PRESIDENT

DATE: Jan 17, 2025
NMBTIN#: 01-716872-04

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Kevin L. Nault
Kevin L. Nault (Jan 17, 2025 09:54 MST)
_____
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
_____
EMILY OSTER, FINANCE DIRECTOR

Constr_Contract_B&D_OnCall_ITB_Mech Plumb_Final CAO

Final Audit Report 2025-01-17

Created:	2025-01-10
By:	Amy Cawthon (amcawthon@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAjS6cs3e7riHukyFNWi0lu8zB0dpi0hBP

"Constr_Contract_B&D_OnCall_ITB_Mech Plumb_Final CAO" History

Document created by Amy Cawthon (amcawthon@santafenm.gov)
2025-01-10 - 11:36:40 PM GMT- IP address: 63.232.20.2

Document emailed to clinton@banddindustries.com for signature
2025-01-10 - 11:37:28 PM GMT

Email viewed by clinton@banddindustries.com
2025-01-11 - 1:07:24 AM GMT- IP address: 104.28.85.157

Email viewed by clinton@banddindustries.com
2025-01-13 - 1:21:05 AM GMT- IP address: 40.94.27.126

Email viewed by clinton@banddindustries.com
2025-01-15 - 3:22:45 AM GMT- IP address: 40.94.27.126

Email viewed by clinton@banddindustries.com
2025-01-17 - 7:25:57 AM GMT- IP address: 40.94.33.126

Signer clinton@banddindustries.com entered name at signing as Clinton Beall
2025-01-17 - 4:53:34 PM GMT- IP address: 174.236.100.103

Document e-signed by Clinton Beall (clinton@banddindustries.com)
Signature Date: 2025-01-17 - 4:53:36 PM GMT - Time Source: server- IP address: 174.236.100.103

Document emailed to klnault@santafenm.gov for signature
2025-01-17 - 4:53:37 PM GMT

Email viewed by klnault@santafenm.gov
2025-01-17 - 4:53:56 PM GMT- IP address: 104.47.64.254

Signer klnault@santafenm.gov entered name at signing as Kevin L. Nault
2025-01-17 - 4:54:21 PM GMT- IP address: 172.59.1.24

Document e-signed by Kevin L. Nault (klnault@santafenm.gov)
Signature Date: 2025-01-17 - 4:54:23 PM GMT - Time Source: server- IP address: 172.59.1.24

Agreement completed.
2025-01-17 - 4:54:23 PM GMT

B&DINDU-01 CBUTLER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/30/2024

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

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

PRODUCER License # 0757776
HUB International Insurance Services (SOW)
6565 Americas Parkway Suite 720
Albuquerque, NM 87110

CONTACT NAME: Carrie Butler
PHONE (A/C, No, Ext): (505) 262-9412 9412 FAX (A/C, No): (866) 487-3972
E-MAIL ADDRESS: Carrie.Butler@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Valley Forge Insurance Company	20508
INSURER B : National Fire Insurance Company of Hartford	20478
INSURER C : The Continental Insurance Company	35289
INSURER D : Builders Trust of New Mexico	
INSURER E :	
INSURER F :	

INSURED
B & D Industries, Inc.
9720 Bell Ave SE
Albuquerque, NM 87123

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X	X	6016149399	12/31/2024	12/31/2025	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO	X	X	6016149371	12/31/2024	12/31/2025	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
C	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 5,000,000
	EXCESS LIAB CLAIMS-MADE	X	X	6016149404	12/31/2024	12/31/2025	AGGREGATE	$
	DED X RETENTION $ 10,000						Aggregate	$ 5,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH)	N / A	X	WC100-0005672-2025A	1/1/2025	1/1/2026	E.L. EACH ACCIDENT	$ 2,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 2,000,000
							E.L. DISEASE - POLICY LIMIT	$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Umbrella is Form Following over General Liability, Auto Liability and Employers Liability. Additional Insured, Waiver of Subrogation and Primary Non-Contributory apply per attached policy forms.

CERTIFICATE HOLDER

City of Santa Fe Public Works
2651 Siringo Rd. Bldg R
Santa Fe, NM 87505

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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City of Santa Fe, New Mexico

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

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Dear City Staff,

In accordance with State Statute and City Ordinances, this document serves as a blanket ***services'*** determination and is valid until June 30, 2025, for the types of general, professional, and construction services that are clearly one of the types pre-established and approved by the State Purchasing Agent and City CPO.

Please continue to obtain determinations for services that do not clearly and fully fit within the types listed below. For mixed or hybrid services, unclear scopes of work, and design-build projects, a specific determination will be required. In these cases, please email purchasing_det@santafenm.gov to obtain the necessary CPO determinations for your procurement needs.

Should you have any questions or require clarification on a particular service, feel free to contact CPD.

The following are General Services:

- Air/bus, vehicle charter/rental service
- Auctioneers
- Audio-visual equipment setup and routine maintenance for events and presentations (including projectors, microphones, and speakers)
- Banking Services (routine, transaction-based)
- Boiler testing/water treatment service
- Bookkeeping service (routine, transaction-based)
- Building alarm systems, service and repair
- Check collection service
- Clothing, textile fabrication repair service
- Commercial laundry service, dry cleaning, etc.
- Communications systems installation, servicing, and repair
- Conference and trade show coordination

General Services (continued):

- Debt collection service
- Delivery/courier service
- Document storage, duplication, retrieval, review, and destruction service
- Drug testing and screening (standard tests)
- Engraving service
- Equipment installation, preventive maintenance, inspection, calibration, and repair
- Equipment rental services
- Exams administration and scoring service
- Executive recruitment
- Firefighting/suppression service
- Food preparation, vending, and catering services
- Health screening, basic diagnostic (wellness, blood pressure monitoring, blood draw, etc.)
- Herbicide application service
- Household goods packing, storage, transportation service
- HVAC system maintenance service
- Information Technology Hosting (only)
- Information Technology Help Desk Services
- Information Technology Services requiring software or equipment
- Information Technology Software and Hardware Support Services
- Interpretive services: written/oral/sign language
- Inventory service
- Janitorial service, carpet cleaning, window washing
- Laboratory testing and analysis (standard tests only)
- Land clearing/debris removal service
- Landscaping—tree planting, grooming service, lawn mowing, etc. (but not landscape architects)
- Language translation service
- Linen rental service
- Marine equipment inspection, certification, and repair

General Services (continued):

- Medical equipment rental or repair service (wheelchairs, walkers, etc.), including measurements, adjustments, and modifications to meet patient needs
- Metal/pipe/wiring detection service
- Office furnishings installation, refurbishment, and repair service
- Package inspection and crating
- Painting service
- Paper shredding
- Parking lot sweeping/snow removal service
- Pest/weed control service
- Photographic/micrographic processing and delivery, includes aerial and ground photography (if analysis is included, then personal service)
- Printing/duplicating service
- Process serving
- Property management (rent collection, property maintenance, etc.)
- Recycling/disposal/litter pickup service
- Retreat and workshop planning, conduct, coordination, etc.
- Security/armored car services
- Shop welding/metal fabrication service
- Software as a Service
- Steam cleaning, high pressure washing, parts cleaning service
- Studio photography service (does not include portrait painting)
- Telephone interview service (conduct of survey using prescribed survey instrument)
- Towing service
- Training – when offered as a regular course by an institution (such as a college or university)
- Travel service — air, surface, water
- Vehicle inspection, lubricating, and repair services
- Videotaping and recording service
- Warehouse dry/cold storage rental service
- Weather information service

The following are Professional Services:

- Accountants (certified public accountants and registered public accountants)
- Actuaries
- Analysts of processes, programs, fiscal impact, and compliance
- Appraisers
- Archeologists
- Architects
- Artwork, original (services creating the artwork)
- Audio/video media productions (design, development, and/or oversight of)
- Auditors
- Broadband
- Business process re-engineering
- Counselors
- Consultants (including IT Consultants)
- Curriculum/Examination development
- Data Backup Services
- Data Storage and Management Services
- Design
- Economists
- Engineers
- Environmental monitoring: noise level, safety, hazardous gas detection, radiation monitoring service, etc.
- Financial Advisors
- Grant writing
- Graphic designers (creative or original in nature)
- Independent Verification and Validation
- Information Technology Hosting when it includes Maintenance and Support
- Information Technology Maintenance
- Information Technology Management

Professional Services (Continued):

- Information Technology Programming
- Information Technology Risk Assessment
- Insurance Adjusters
- Investigators (personnel-related, etc.)
- Investment advisors and management
- Labor negotiators
- Landscape Architects
- Lawyers
- Lobbyists
- Managed Network Services
- Management and system analysts
- Management consultants
- Marketing consultants (including identifying market opportunities, conduct of marketing programs, planning, promotion, market research surveys, etc.)
- Medical arts practitioners
- Network Cybersecurity Services
- Network Installation
- Planners
- Policy Advisors
- Product Development Services
- Program/Project Managers
- Psychologists
- Public relations advisors/Publicists
- Publication development (creation of audio/video productions, brochures, pamphlets, maps, signs, posters, annual reports, etc.)
- Researchers
- Scientists (Bio/Chem/Env/Geo/Hydro/Mech, etc.)
- Speech writers
- Statisticians

Professional Services (Continued):

- Surveyors
- Trade developers
- Training – when it is specifically designed for an agency as opposed to established courses (such as out of the box training offered to all at a training company, university, or college)
- Web design and development

The following are Construction Services:

- Bid-Build (Standard)
- Construction Managers
- New Construction (including buildings, roads, bridges, utilities)
- Remodeling and Renovations (interior and exterior work)
- Demolition (including site clearance)
- Excavation and Earthwork
- Electrical Work (installation, repair, upgrades)
- Permanent installation or upgrades of audio-visual systems (including wiring and structural modifications)
- Plumbing (installation, repair, maintenance)
- Masonry and Concrete Work
- Roofing (installation, repair, maintenance)
- Structural Repair and Reinforcement
- Painting and Finishing (for construction purposes)
- Mechanical Work (HVAC systems, etc.)
- Site Preparation and Land Grading
- Utility Installation and Repair (water, sewer, gas lines)

Travis Dutton-Leyda, Chief Procurement Officer

_____ Date: 11/21/2024

Emily Oster, Finance Director

Emily K. Oster

_____ Date: 11/26/2024

Blanket Services Determination

Final Audit Report 2024-11-26

Created:	2024-11-21
By:	Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAqgOwaNI_DZmo99HuXiloJc1Cdxp6T9hq

"Blanket Services Determination" History

Document created by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
2024-11-21 - 4:11:51 PM GMT- IP address: 63.232.20.2

Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2024-11-21 - 4:12:58 PM GMT

Document emailed to Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature
2024-11-21 - 4:12:58 PM GMT

Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2024-11-21 - 4:13:09 PM GMT - Time Source: server- IP address: 63.232.20.2

Email viewed by EMILY OSTER (ekoster@santafenm.gov)
2024-11-26 - 7:38:13 PM GMT- IP address: 104.47.65.254

Document e-signed by EMILY OSTER (ekoster@santafenm.gov)
Signature Date: 2024-11-26 - 7:52:49 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2024-11-26 - 7:52:49 PM GMT

Contract Packet_B&D_on-call MechPlumb ITB_01 23 2025_CG3 ELK2 SB RW

Final Audit Report 2025-01-31

Created:	2025-01-30
By:	Elizabeth Kahahane (elkahahane@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAN1bKi2zgnTUpbmmCWVj9I5MbRdyVyGp2

"Contract Packet_B&D_on-call MechPlumb ITB_01 23 2025_CG 3 ELK2 SB RW" History

Document created by Elizabeth Kahahane (elkahahane@santafenm.gov)
2025-01-30 - 10:37:18 PM GMT- IP address: 63.232.20.2

Document emailed to CARYN GROSSE (clgrosse@santafenm.gov) for signature
2025-01-30 - 10:40:38 PM GMT

Email viewed by CARYN GROSSE (clgrosse@santafenm.gov)
2025-01-31 - 5:15:55 PM GMT- IP address: 174.240.16.113

Document e-signed by CARYN GROSSE (clgrosse@santafenm.gov)
Signature Date: 2025-01-31 - 5:16:23 PM GMT - Time Source: server- IP address: 174.240.16.113

Document emailed to JOHN BURNETT (jsburnett@santafenm.gov) for signature
2025-01-31 - 5:16:24 PM GMT

Email viewed by JOHN BURNETT (jsburnett@santafenm.gov)
2025-01-31 - 6:01:45 PM GMT- IP address: 63.232.20.2

Document e-signed by JOHN BURNETT (jsburnett@santafenm.gov)
Signature Date: 2025-01-31 - 6:02:09 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to rawheeler@santafenm.gov for signature
2025-01-31 - 6:02:11 PM GMT

Email viewed by rawheeler@santafenm.gov
2025-01-31 - 7:50:34 PM GMT- IP address: 104.47.64.254

Signer rawheeler@santafenm.gov entered name at signing as RW
2025-01-31 - 7:50:40 PM GMT- IP address: 63.232.20.2

Powered by Adobe Acrobat Sign

Document e-signed by RW (rawheeler@santafenm.gov)

Signature Date: 2025-01-31 - 7:50:42 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2025-01-31 - 7:50:42 PM GMT

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Adobe
Acrobat Sign

Contract Packet_B&D_on-call MechPlumb ITB_01 23 2025_CG3 ELK2 SB RW

Interim Agreement Report 2025-02-07

Created:	2025-02-05
By:	Kristy Miera (kamiera@santafenm.gov)
Status:	Out for Signature
Transaction ID:	CBJCHBCAABAA6_yFDT89jX-P1YNFCMk_j1UtHV3KAOG_

Agreement History

Agreement history is the list of the events that have impacted the status of the agreement prior to the final signature. A final audit report will be generated when the agreement is complete.

"Contract Packet_B&D_on-call MechPlumb ITB_01 23 2025_CG 3 ELK2 SB RW" History

Document created by Kristy Miera (kamiera@santafenm.gov)
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Contract Packet_B&D_on-call MechPlumb ITB_01 23 2025_CG3 ELK2 SB RW

Final Audit Report 2025-02-12

Created:	2025-02-07
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"Contract Packet_B&D_on-call MechPlumb ITB_01 23 2025_CG 3 ELK2 SB RW" History

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City of Santa Fe, New Mexico
Memorandum

DATE: February 11, 2025

TO: Governing Body

VIA: Emily Oster, Finance Director
Alexis Lotero, Assistant Finance

FROM: Eric Candelaria, ITT Department Director

Eric Candelaria (Feb 11, 2025 14:35 MST)

SUBJECT: One-Time Funding Request

ITEMS AND ISSUE:
Finance/ITT Department requests the approval of Budget Amendment Resolution (BAR) in the amount of $1,000,000 from one-time funding available in the general fund balance for Non-Public Safety Radio (NPSR) Upgrade to State Radio System. (Eric Candelaria ITT Director; edcandeleria@santafenm.gov)

BACKGROUND AND SUMMARY:
The existing radio tower that supplies analog radio connectivity for Public Works, Public utilities, and all non-Public Safety departments in the city is repeatedly suffering outages. These departments rely upon the City's NPSR system for daily operational communication between vehicles and staff. This purchase is to ensure these departments have adequate radio communications by upgrading existing City radios that have not be upgraded for the State Radio System. These funds will assist these departments in the purchase of new radio upgrades to get their radio services onto the State Radio System.

ACTION REQUESTED:
Finance/ITT Department respectfully requests the approval of funds for Non-Public Safety Radio (NPSR) Upgrade to State Radio System.

FUNDING SOURCE:
Fund Name/Number: ITT/620
Munis Org Name / Number: Data Processing Equipment / 572800 $1,000,000

ATTACHEMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
ITT/ Infrustructure (ISD)	2/11/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Radios	6203650	572800		1,000,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 1,000,000	$ -

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

One time expense increase see attached memo

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

Erin Gomez — 2/11/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Eric Candelaria (Feb 11, 2025 14:34 MST) — Feb 11, 2025
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date:

Agenda Item #:

ALEXIS LOTERO (Feb 12, 2025 10:59 MST) — Feb 12, 2025
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

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

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

DEPARTMENT / DIVISION NAME	DATE
Information Technology & Telecommunications / Infrastructure Services	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Equipment & Machinery > $5,000	6203650	570500		1,000,000	
ITT (General Fund) / Transfer to ITT (Services of Other Departments Fund)	1003501	750620		1,000,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
ITT (Services of Other Departments Fund) / Transfer from ITT (General Fund)	6203650	650100		(1,000,000)	
				$ 1,000,000	$ -

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

Appropriation from available General Fund balance for non-public safety radio upgrades to allow for connectivity to the State radio system

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(1,000,000)
TOTAL:	**(1,000,000)**

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

CITY OF SANTA FE

Date: January 21, 2025

To: Governing Body

From: Regina Wheeler, Public Works Director Regina Wheeler (Jan 21, 2025 12:35 MST)

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) to Allocate One-Time Funding From Available GRT Fund 216 Balance For Contractually Required Fiscal Agent Fees in the Total Amount of $120,000 to Public Works Administration Service Contracts. (Regina Wheeler, Public Works Director; rawheeler@santafenm.gov)

BACKGROUND AND SUMMARY:
The New Mexico Department of Finance and Administration (DFA) took the position that it required the City to engage a fiscal agent in order to utilize State Capital appropriations. The City entered into a intergovernmental services agreement with the North Central New Mexico Economic Development District (NCNMEDD) to meet the State's mandate. NCNMEDD fee for these services is 1% of the amount that the City submits for reimbursement estimated to be $120,000 in FY25.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from GRT Fund 216
Fund Name/Number: General Fund/ 100
Munis Org Name/Number: Public Works Administration / 1006001
Munis Expenditure Object Name/Number: Service Contracts / 510310
Project Ledger: PWD2510051

ATTACHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Administration	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Service Contracts	1006001	510310	PWD02510051	120,000	
Gross Receipts Tax Fund / Transfer to PW Administration (General Fund)	2160001	750100		120,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
PW Administration (General Fund) / Transfer from Gross Receipts Tax Fund	1006001	650216		(120,000)	
				$ 120,000	$ -

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

Appropriation from available Gross Receipts Tax Fund balance for fiscal agent fees payable to the North Central New Mexico Economic Development District (NCNMEDD) as mandated by the New Mexico Department of Finance and Administration (NM DFA) in order for the City to receive State capital appropriations

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
216	(120,000)
TOTAL:	**(120,000)**

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

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CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 11:18 MST) — Budget Officer — Feb 11, 2025 Date

Division Director Signature *{optional}* — Date

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

Department Director Signature — Date

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

City of Santa Fe, New Mexico
Memorandum

DATE: **February 5, 2025**

TO: **Governing Body**
Regina Wheeler
Regina Wheeler (Feb 7, 2025 11:50 MST)

VIA: **Regina Wheeler, Public Works Director**

Melissa McDonald, Parks and Open Space Division Director MMc
MMc

FROM: **Scott Overlie, Parks and Open Space Project Manager** sao
sao
Sam Ulibarri, Parks and Open Space Water Resources Superintendent SU
SU

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) to Allocate $320,000 from Available Gross Receipts Tax Fund 216 and $680,000 From the ½% Capital GRT Fund 365 for a Total Amount of $1,000,000 to Municipal Recreation Complex WIP Construction to Repair Ponds at the Marty Sanchez Golf Course for Compliance with a Corrective Action Plan. (Scott Overlie, Parks and Open Space Project Manager; saoverlie@santafenm.gov and Sam Ulibarri, Parks and Open Space Water Resources Superintendent; ssulibarri@santafenm.gov)

BACKGROUND AND SUMMARY:
The Parks and Open Space Division will use this one-time allocation to supplement existing funding for the implementation of a required Action Plan to ensure compliance with the United States Environmental Protection Agency (EPA) and New Mexico Environment Department (NMED) regulations. Work has already commenced with partial funding, and completion is anticipated before the 2025 irrigation season.

FUNDING SOURCE: FY 25 One Time Allocation from Gross Receipts Tax Fund 216 and ½% Capital GRT Fund 365
Project Ledger ID: MRC2553002-Construct
Fund Name/Number: MUNRECCMP / 530
Munis Org Name/Number: MRC CapPrj / 5300279
Munis Object Name/Number: WIP Construction / 572970

ATTACHMENTS:
BAR

Signature: Samuel S. Ulibarri

Email: ssulibarri@santafenm.gov

Signature: Scott Overlie
Scott Overlie (Feb 7, 2025 11:17 MST)

Email: saoverlie@santafenm.gov

Signature: Melissa McDonald

Email: mamcdonald@santafenm.gov

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Municipal Recreation Complex (MRC)	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	5300279	572970	MRC2553002-Construct	1,000,000	
Gross Receipts Tax Fund / Capital Transfer to MRC CIP Fund	2160001	760530		320,000	
1/2% Capital GRT Fund / Capital Transfer to MRC CIP Fund	3654150	760530		680,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
MRC CIP Fund / Capital Transfer from Gross Receipts Tax Fund	5300279	660216		(320,000)	
MRC CIP Fund / Capital Transfer from 1/2% Capital GRT Fund	5300279	660365		(680,000)	
				$ 1,000,000	$ -

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

Appropriation from available balances in the Gross Receipts Tax Fund ($320,000) and the 1/2% Capital GRT Fund ($680,000)

to repair irrigation ponds at the Marty Sanchez Golf Course in order to comply with a Corrective Action Plan required per

US Environmental Protection Agency and New Mexico Environment Department regulations

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
216	(320,000)
365	(680,000)
TOTAL:	**(1,000,000)**

Andy Hopkins — 2/6/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 11, 2025 11:19 MST) — Feb 11, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: January 21, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Director HENRI HAMMOND-PAUL (Jan 23, 2025 16:07 MST)
Maria Sanchez-Tucker, Community Services Director Maria Tucker (Jan 23, 2025 16:05 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Brian Stinett, Recreation Division Director Brian Stinett (Jan 23, 2025 14:23 MST)

SUBJECT: One-Time Funding Request for Recreation

ITEM AND ISSUE:
Community Services/Recreation Division respectfully requests your review and approval of one-time funding from available Fund Balance 365 for Aquatic Mechanical Systems, Motors, and Impeller Remodel and Replacement.

BACKGROUND AND SUMMARY:
Community Services/Recreation Division was given notice that one-time funds were available for unfunded projects. We are requesting $150,000.00 for the remodel and replacement of aquatic mechanical systems motor and impeller systems. GCCC aquatic motors are original to the building (1999) and need replacement. GCCC impellers are also original to the building (1999) and are in a state of disrepair with replacement parts unavailable to refurbish. Quality Sites: Fort Marcy, Salvador Perez, and Bicentennial Pool have varying ages of current pumps and impellers. However, many of the mechanical systems are beyond their usable expected lifespan. Replacement of motors will gather all systems with one replacement date, and allow for aquatics to service, maintenance and recommend every 10 years replacement for the motors and impellers. The current usable motors can be refurbished and stored for an emergency where they can be installed and utilized in the short term should any mechanical system fail. This will reduce the possibility of a closure due to mechanical failure.

ACTION REQUESTED:
Community Services/Recreation Division respectfully requests the approval of funds for Aquatic Mechanical Systems, Motors, and Impeller Remodel and Replacement.

FUNDING SOURCE: FY25 Mid-Year Funding Allocation from Fund 365

Fund Name/Number: GENFUND/100
Munis Org Name/Number: Rec Admin/1004200
Munis Obj Name/Number: Remodeling & Replacement/572500
Amount: $100,000

Fund Name/Number: GCCC/550
Munis Org Name/Number: Natatorium/5500264
Munis Obj Name/Number: Remodeling & Replacement/572500
Amount: $50,000

ATTCHMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Recreation	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Remodeling & Replacement	1004200	572500		40,000	
1) 1/2% Capital GRT Fund / Operating Transfer to General Fund	3650142	750100		40,000	
2) Remodeling & Replacement	5500264	572500		110,000	
2) 1/2% Capital GRT Fund / Operating Transfer to GCCC Fund	3650142	750550		110,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
1) Recreation (General Fund) / Operating Transfer from 1/2% Capital GRT Fund	1004200	650365		(40,000)	
2) GCCC-Natatorium / Operating Transfer from 1/2% Capital GRT Fund	5500264	650365		(110,000)	
				$ 150,000	$ -

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

Appropriations from available 1/2% Capital GRT Fund balance for replacement of aquatics mechanical systems and motor/impeller systems at 1) Fort Marcy, Salvador Perez and Bicentennial pools; and 2) the Genoveva Chavez Community Center Natatorium

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
365	(150,000)
TOTAL:	**(150,000)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 14:46 MST) — Budget Officer — Feb 10, 2025 Date

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

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

City of Santa Fe, New Mexico

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

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Alma G. Castro, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Pilar F.H. Faulkner, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

Date: January 31, 2025

To: Governing Body

From: Randy Randall, Interim City Manager

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) to Allocate One-Time Special Appropriation Funding from Available General Fund Balances in the Amount of $100,000 to Fund Contracts for Experts to Evaluate Options for the Soldiers' Monument (Randy Randall, Interim City Manager, rrandall@santafenm.gov).

BACKGROUND AND SUMMARY:
On October 30, 2024 the Governing Body adopted a resolution directing the City Manager to investigate the feasibility of different options for the Soldiers' Monument located on the Santa Fe Plaza. The resolution directs the City Manager to consult with the State Historic Preservation Office (SHPO) and conduct a feasibility investigation. Pursuant to the Resolution the feasibility investigation shall include hiring experts to evaluate the services and cost to rebuild the Soldiers' Monument without the fourth plaque, and the steps and costs to move the monument.

The purpose of this BAR is to provide funding to complete the activities required by the resolution.

FUNDING SOURCE:
Fund Name/Number: General Fund/100
Munis Org Name/Number: City Manager Admin/ 1000035
Munis Expenditure Object Name/Number: Professional Contracts/510300

ATTACHMENTS:
BAR form

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

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

DEPARTMENT / DIVISION NAME	DATE
City Manager's Office	2/5/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Professional Contracts	1000035	510300		100,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 100,000	$ -

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

Appropriation from available General Fund balance for consultant experts to evaluate options for the Soldiers' Monument

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(100,000)
TOTAL:	**(100,000)**

Andy Hopkins — 2/5/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date:

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 11:04 MST) — Feb 10, 2025
Budget Officer — Date

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

N/A
City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico
Memorandum

DATE: **January 23, 2025**

TO: **Governing Body**

FROM: **Heather Lamboy, Planning and Land Use Director**

VIA: **Andy Hopkins, Budget Officer** *AJH*

RE: **Planning & Land Use One-time funding BAR request**

ITEM/ISSUE:
Consistent with Mayor Webber's commitment to support critical and significant City operational priorities with FY25 one-time funding allocations, the Planning and Land Use Department is requesting the following funding:

One time funding from available Fund Balances

- $75,000 from available General Fund balance to create a development review handbook which will cover processes and submittal requirements from development review to building permitting and inspections.
- $600,000 from available General Fund balance for phase 2 Code Update and General Plan Code Update as well as community engagement at an accelerated schedule
- $27,000 from available General Fund balance for computer upgrades for Building Permit Division to prepare for Electronic Review improvements
- $80,000 from available General Fund balance for E-Review Consultant (Park Consulting - $120,000 one-time funding already approved in first one-time funding requests of 2024; will include both Building and Planning modules).
- $470,850 for Short Term Rental Software to assist with tracking and enforcement ($296,000 from available General Fund balance and $174,850 from available Lodgers' Tax Fund balance).

The total amount requested for Planning and Land Use is $1,252,850

To support these needs, we request the following Budget Amendment Requests (BAR's):

$755,000 into 1004501.510300 (Professional Contracts)
$27,000 into 1004501.572800 (Hardware)
$470,850 into 1004725.510310 (Service Contracts)

Thank you for your assistance.

Signature:

Email: hllamboy@santafenm.gov

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

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

DEPARTMENT / DIVISION NAME	DATE
Planning & Land Use	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Professional Contracts	1004501	510300		75,000	
2) Professional Contracts	1004501	510300		600,000	
3) Data Processing Equipment < $5,000	1004501	572800		27,000	
4) Professional Contracts	1004501	510300		80,000	
5) Service Contracts	1004725	510310		470,850	
5) Lodgers' Tax Fund / Transfer to Land Use-Enforcement Division (General Fund)	2130001	750100		174,850	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
5) Land Use-Enforcement Division (General Fund) / Transfer from Lodgers' Tax Fund	1004725	650213		(174,850)	
				$ 1,252,850	$ -

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

Appropriation from available General Fund balance for: 1) creation of a Development Review Handbook to cover processes and submittal requirements; 2) additional resources for phase 2 of the General Plan Code update and community outreach; 3) computer upgrades to prepare for electronic plan review improvements; 4) Building and Planning E-Review consulting services; and 5) Short-Term Rental Software to aid tracking and enforcement {$296,000 from General Fund, $174,850 from Lodgers' Tax Fund}

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(1,078,000)
213	(174,850)
TOTAL:	**(1,252,850)**

Andy Hopkins — Prepared By *{print name}* — 1/30/2025 Date

Division Director Signature *{optional}* — Date

Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 15:23 MST) — Budget Officer — Feb 10, 2025 Date

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

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

BAR Memo PLU1_various RFS

Final Audit Report 2025-02-10

Created:	2025-02-10
By:	ERMINIA TAPIA (emtapia@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA4zHXGsR7vTuOoyuOEqt-69IQbsXmJruT

"BAR Memo PLU1_various RFS" History

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City of Santa Fe, New Mexico
Memorandum

DATE: January 23, 2025

TO: Governing Body

VIA: Henri Hammond-Paul, Community Health and Safety Department Director HENRI HAMMOND-PAUL (Jan 23, 2025 19:35 MST)
Marcella Apodaca, Business Operations Manager Marcella Apodaca

FROM: Julie Sanchez, Youth and Family Services Division Director

SUBJECT: Human and Social Services – One Time Funding JULIE SANCHEZ (Jan 23, 2025 19:18 MST)

ITEM AND ISSUE:
Request for Approval of a Budget Amendment Resolution (BAR) in the total amount of $3,438,000 in One Time Funding from available General Fund (100) and Capital GRT Fund (365) balances to support and expand existing human services under CONNECT, homeless solutions, guaranteed income, and immigration support; (Julie Sanchez, Youth and Family Services Division Director; jjsanchez@santafenm.gov)

BACKGROUND AND SUMMARY:
The Youth and Family Services Division works closely with community partners, city and county leadership to address some of the city's biggest issues. The one-time allocation will allow the division to support and expand existing programs under the division.

CONNECT Flexible Funding - $150,000.
Given the rising cost of food, rent, utilities and other basic need, the $150,000 one-time funding request will be distributed through the CONNECT network. The funds will support individuals or families who are low income and/or indigent so that they can access much needed resources. Often individuals are referred to CONNECT for rent, utilities, food, and automobile and home repairs. CONNECT navigators utilized the CONNECT Standards and Protocols which identify which approved items can be purchased for individuals. Navigators are also required to complete screenings to identify what other resources an individual might benefit from. The goal is to identify the root cause of the issue, get the individual out of crisis by purchasing the items they are needing, and support them in planning for the future so that future crises can be averted.

Cerrillos Road Security - $1,375,000.
The division desires to pilot a security and outreach program where a service provider would be contracted to do community-based public safety engagement along the Cerrillos road corridor and other high concentration areas of homelessness. Service requirements will also include making sure storage is available for unhoused individuals' belongings and a place for them to recreate while providing respectful and high-quality services.

Emergency Cold Weather Shelter - $30,000.

After 4 deaths occurred in November from exposure, and a successful partnership with the faith-based community and local providers when temperatures dipped into the single digits. It's the desire of the division to pilot a on-call services contract with local providers to be available to staff stood up emergency code blue shelters. One-time funding will be allocated to cover overtime for staff, meals, bedding and other necessary items.

Project Manager for Homelessness - $125,000.
One time funding request to support an in-house or contracted term position to assist the division with its homelessness work.

Project Manager for Lamplighter - $158,000.
One time funding request to complete a funding gap for the lamplighter project.

Guaranteed Income for Community College Student Parents - $1,000,000.
A continuation of the city's successful two generation, poverty alleviation pilot program that started in 2021; the guaranteed income project will target 90 to 100 low-income student parents who are enrolled in a certificate, degree, GED, and/or apprenticeship program.

Immigrant Support - $250,000.
One time funding is requested to support the creation of a toolkit for resources, partnering with local organizations on providing safety and guardianship planning, and co-funding with the county; a community education series, workshops and 'know your rights' training focused on immigrant populations.

Funding Source: FY25 Mid-Year Funding Allocation from General Fund 100
Fund Name/Number: Human Services/240
Munis Org Name/Number: Human Services/2400122
Munis Obj Name/Number: Grants and Services/510400 Project Ledger: NA

Micro Community Project Management + Engineering - $350,000.
Micro Communities offer the opportunity to house the most needy, unsheltered community members in a non-congregate, low barrier setting. Residents would receive on-site case management and social supports in a trauma-informed environment. As the City of Santa Fe continues to invest in Micro Communities, staff will work with experienced Project Managers to move through the design and installation of sites. Project Managers will work with construction companies to oversee the safe installation of these facilities.

Funding Source: FY25 Mid-Year Funding Allocation from Capital GRT Fund 365
Fund Name/Number: Human Services/240
Munis Org Name/Number: Human Services/2400122
Munis Obj Name/Number: Grants and Services/510400 Project Ledger: NA

Attachments:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Community Services / Youth & Family	1/30/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
1) Grants & Services	2400122	510400		150,000	
2) Grants & Services	2400122	510400		1,375,000	
3) Grants & Services	2400122	510400		30,000	
4) Grants & Services	2400122	510400		125,000	
5) Grants & Services	2400122	510400		158,000	
6) Grants & Services	2400122	510400		1,000,000	
7) Grants & Services	2400122	510400		250,000	
8) Grants & Services	2400122	510400		350,000	
1-7) Youth & Family (General Fund) / Operating Transfer to Community Development Fund	1000121	750240		3,088,000	
8) 1/2% Capital GRT Fund / Operating Transfer to Community Development Fund	3650142	750240		350,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
1-7) Human Services (Community Development Fund) / Operating Transfer from Youth & Family (General Fund)	2400122	650100		(3,088,000)	
8) Human Services (Community Development Fund) / Operating Transfer from 1/2% Capital GRT Fund	2400122	650365		(350,000)	
				$ 3,438,000	$ -

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

Appropriations from available General Fund balance for: 1) CONNECT Network support for low-income/indigent resource access; 2) community-based public safety engagement in the Cerrillos Rd. corridor; 3) emergency cold weather/code blue shelter services; 4) a contracted project manager for homelessness services; 5) a contracted project manager for the Lamplighter project; 6) guaranteed income for low-income Community College student parents; 7) immigrant support; and 8) appropriation from available 1/2% Capital GRT Fund balance for Micro Community project management and engineering

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(3,088,000)
365	(350,000)
TOTAL:	**(3,438,000)**

Andy Hopkins 1/30/2025
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Department Director Signature Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

ALEXIS LOTERO (Feb 10, 2025 14:50 MST) Feb 10, 2025
Budget Officer Date

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

N/A
City Manager *{≤ $60,000}* Date

CITY OF SANTA FE

Date: January 30, 2025

To: Mayor Alan Webber and Governing Body (January 26, 2025)
Finance Committee (January 24, 2025)
Public Utilities/ Public Works (January 17, 2025)

Via: Jesse Roach, Interim Public Utilities Department Director JR
Debora Trujillo, Interim Environmental Services Division Director DT

From: Lawrence Garcia, ESD Fleet Manager LG

Subject: Purchase of Two Rear-Loading Collection Vehicle

Vendor Name: Bond Equipment
Vendor Number: 10834

ITEM AND ISSUE:
Public Utilities Department respectfully requests your review and approval of the Purchase of Two Rear-loading Truck, in the Total Amount of $805,068 excluding tax, with Bond Equipment Company Via Texas Local Cooperative Buy Board Contract 732-23, a Texas Purchasing Cooperative, (Lawrence Garcia, ESD Fleet Manager, (505-955-2241 lmgarcia@santafenm.gov).

Action Requested: Public Utilities / Environmental Services respectfully requests your review and approval.

BACKGROUND AND SUMMARY:
Due to the current market, the build time for waste/recycling collection units is two-three years. Environmental Services Division (ESD) has an opportunity to purchase two rear-loading base model units which we can take possession of within FY 25. Bond Equipment Company has two Rear-loading trucks available. The proposed collection vehicles meet ESD required specifications.

The collection vehicles which are proposed for replacement are:

- Asset #54771–a 2014 Crain Carrier which is over ten years old.
- Asset #54772– a 2014 Crain Carrier Which is over ten years old.

PROCUREMENT METHOD:
The procurement method is from Bond Equipment Company via the Texas Cooperative Purchasing Agreement 723-23 Medium and Heavy-Duty Truck, Parts, and Maintenance Repair Services.

Chief Procurement Officer Approval: _____ **Date:** _____
Comment/Exceptions: _____
Supporting Information:

The funding source is:
Fund Name/Number: General Fund/Fund 510
Munis Org Name/Number: ESD Commercial Collection0/5100332
Munis Object Name/Number: Vehicles > 1.5/571000

Budget Officer Approval: Andy Hopkins **Date:** _____
Comment/Exceptions: _____

Grant ☐Yes | ☒ No

Grant: N/A

Grant Manager/Accounting Officer Approval: N/A **Date:** _____
Comment/Exceptions: _____

Project ☐Yes | ☒ No

Project Ledger #: N/A

CAPITAL ASSET (will this procurement result in a tangible item that costs more than $5,000
☒Yes | ☐ No

Asset # (if known): TBD

Repair or Replacement of Existing Equipment:

☒Yes | ☐ No
~If yes -> ☐Repair | ☒ Replacement

The collection vehicles which are proposed for replacement are:

- Asset #54771–a 2014 Crain Carrier which is over ten years old.
- Asset #54772– a 2014 Crain Carrier Which is over ten years old.

The cost of repair and maintenance of these two collection vehicles is high as these trucks are old and are not in good condition. These compounded issues result in higher operational costs to keep older trucks on the road and possible safety issues.

Capital Project:
(New and improvement projects that are going to cost $10,000 or more)
☐ Yes | ☒ No

Anticipated length of project: N/A

Asset Manager Approval: Josie Bolden **Date:**
Comment/Exceptions:

Was this service deemed construction: ☐ Yes | ☒ No
~If yes, does this expenditure exceed $25,000? ☐ Yes | ☐ No
~If yes, did you obtain the appropriate bond? ☐ Yes | ☐ No
~Performance and Payment & Labor - NMSA 1978, Section 13-4-18

Department Approvals:
Vehicles: ☒ Yes | ☐ No See Memo

Approval: **Title:** P/U Dept Director **Date:**
Approval: **Title:** Interim Div Director **Date:**
DEBORA TEN III LO (Feb 12, 2025 14:24 MST)
Comment & Exceptions:

Department Contract Administrator Contact Info: lmgarcia@sanafenm.gov

ATTACHMENTS:

Vendor Quote 38735 including specifications Dated 9/10/2024
Purchasing approval Memo
CES Contract Award Letter including signatures, and pricing

TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE BUYBOARD

PRODUCT PURCHASING BASED ON CONTRACT

Customer		City of Santa Fe			1/30/2025
Product Description	LH Drive	Battle Motors	LET2 6X4	diesel	
	Ship to	New Way			
A. Base Price in Bid/Proposal Number		723-23			$189,356.00
B. Published Options *Itemize each item below)					
Crew Cab	3876	Batt-Disconnect to switch	185		
4500RDS-R	11060	Marker lts w/ disconnect	138		
Block Heater	384	Battery box 3 950 CCA	310		
HMX 460	3342	Adjustable seat shock	168		
D46-170	1350	RH Fixed "C"	721		
Pre Cleaner	355				
Tow pins	143				
Air horn	798				
Heated Mirrors	116				
Diff lock controls w buzzer	391				
DCDL Tandem	1118	25 Yard New Way Cobra	170756		
Interaxle controls/buzzer	34	Freight	5000		
Subtotal column 1	22967	Subtotal column 2	177278		
Pubished Options added to Base Price (Subtotal of Column1 Column 2)					$200,245
C. Subtotal of A+ B					$389,601
D. Unpublished Options (Itemize each item below. Not to exceed + 25% of Unpublished)					
DLX Seat	858	Surcharge	975		
		Payment after delivery	8000		
Total Column 1	858	Total Column 2	8975		
Unpublished Options added to Base Price (subtotal of Column 1 + 2)					9833
E. Contract Price Adjustment (if any explain)					
F. Total of C +D + E(Not including Buyboard Fee)					$399,434
G. Quantity Ordered (Units x F)	1 # of Units				399,434
H. Buyboard Fee		400			400
I. Non-Equipment Charges & Credits (ie Ext. Warranty, Trade In, Cost of Factory Trips etc.)			*Cummins Ext Warranty	2700	2700
			*Truck Inspection	0	1500
		Subtotal non equipment changes			
J. TOTAL PURCHASE PRICE INCLUDING (G +H +I)					402,534

Bond Equipment Company Inc.
2946 Irving Blvd
Dallas, TX 75247

Andy Bond
214-637-0760

***Cummins Extended warranty per truck $2700**
***Truck inspection per person $1500**

MEMO

Environmental Services Division
Recycling | Trash | Sustainability
Keep Santa Fe Beautiful

DATE: January 21, 20255

TO: Travis Dutton-Leyda, Chief Procurement Officer

FROM: Lawrence Garcia, ESD Fleet Manager

RE: Purchasing Manuel XV. Cooperative Agreements/ Central Purchasing Authority

ITEM AND ISSUE:
Request for Approval to utilize the Texas Buy Board Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Service.to purchase two Rear-Loader trucks from Bond Equipment. The Buy Board contract number is #723-23. The Total Amount of this purchase is $804,068 From Bond Equipment vendor #10834.

PROCUREMENT METHOD:
The procurement method is off the Texas Buy Board Contract No 723-23 Via Bond Equipment.

FUNDING SOURCE:
Fund Name/Number: Environmental Services Division Fund/510
Munis Org Name/Number: 5100332 (Commercial Collection)
Munis Object Name/Number: Vehicles >1.5 /571000

ACTION REQUESTED:
Per the City of Santa Fe Purchasing Manual (XV Cooperative Agreement), Environmental Services Division (ESD) is requesting authority to purchase from Bond Equipment via Texas BuyBaord contract # 723-23 Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Service.

Approval Signature

P.O. Box 400, Austin, Texas 78767
800.695.2919 • info@buyboard.com • buyboard.com

October 18, 2024

Sent via email to: andyb@bondequipment.com

Andy Bond
Bond Equipment Company
2946 Irving Blvd.
Dallas TX 75247

Re: Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Services
BuyBoard Contract 723-23

The Local Government Purchasing Cooperative (BuyBoard) awarded your company a contract under Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Services, Contract 723-23 effective 12/1/2023 through November 30, 2024, with two possible one-year renewals. At this time the BuyBoard is renewing your contract through November 30, 2025.

All discounts, terms, and conditions of your contract will remain the same. If you agree to this renewal, there is nothing you need to do. However, if you do not agree to this renewal, you must notify me via email at contractadmin@buyboard.com prior to the start of the renewal term.

Reminder: Once a BuyBoard contract is awarded, vendors must generate a minimum of $15,000 annually or they may not be offered a contract renewal.

If you have questions or comments concerning this renewal, please contact me as soon as possible at contractadmin@buyboard.com . We appreciate your interest in The Local Government Purchasing Cooperative.

Sincerely,

Jim Tulberg

Jim Tulberg
Contract Administrator

1st renewal v.02.13.2020

October 9, 2023

Sent Via Email: andyb@bondequipment.com

Andy Bond
Bond Equipment Company
2946 Irving Blvd
Dallas, TX 75247

Welcome to BuyBoard!

Re: *Notice of National Purchasing Cooperative Award;* Proposal Invitation No. 723-23, Medium and Heavy Duty Trucks, Parts, and Maintenance Repair Service

Congratulations, The National Purchasing Cooperative (National Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal Invitation. The contract is effective for an initial one-year term of December 1, 2023, through November 30, 2024, and may be subject to two possible one-year renewals. Please refer to the Proposal Invitation for the contract documents, including the National Purchasing Cooperative Vendor Award Agreement and General Terms and Conditions of the Contract.

To review the items your company has been awarded, please review Proposal Tabulation No. 723-23 at www.buyboard.com/vendor. Only items marked as awarded to your company are included in this contract award, and only those awarded items may be sold through the BuyBoard contract. All sales must comply with the contract terms and must be at or below the awarded pricing as set forth in the General Terms and Conditions.

The contract will be posted on the BuyBoard website as an online electronic catalog(s). **You are reminded that, in accordance with the General Terms and Conditions, all purchase orders from National Cooperative members must be processed through the BuyBoard.** Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a National Cooperative member that has not been processed through the BuyBoard or provided to the Cooperative. If you receive a purchase order directly from a National Cooperative member that you have reason to believe has not been received by the National Cooperative or processed through the BuyBoard, you must promptly forward a copy of the purchase order by e-mail to Info@buyboard.com

A list of National Cooperative members is available on the buyboard.com website. Once the contract is active, the BuyBoard vendor relations staff will be contacting you to assist with resources available and provide any support you may need as an awarded BuyBoard vendor.

On behalf of the National Cooperative, we are looking forward to your participation in the program. If you have any questions, feel free to contact me at 800-695-2919.

Sincerely,

Ava Benford, Cooperative Procurement Manager
Texas Association of School Boards, Inc.,
Procurement Administrator for the National Purchasing Cooperative

v.02.01.2021

P.O. Box 400, Austin, Texas 78767
800.695.2919 • info@buyboard.com • buyboard.com

October 9, 2023

Sent Via Email: andyb@bondequipment.com

Andy Bond
Bond Equipment Company
2946 Irving Blvd
Dallas, TX 75247

Welcome to BuyBoard!

Re: *Notice of The Local Government Purchasing Cooperative Contract Award;* Proposal Invitation No. 723-23, Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Service

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal Invitation. The contract is effective for an initial one-year term of December 1, 2023, through November 30, 2024, and may be subject to two possible one-year renewals. Please refer to the Proposal Invitation for the contract documents, including the General Terms and Conditions of the Contract.

To review the items your company has been awarded, please review Proposal Tabulation No. 723-23 at: www.buyboard.com/vendor. Only items marked as awarded to your company are included in this contract award, and only those awarded items may be sold through the BuyBoard contract. All sales must comply with the contract terms and must be at or below the awarded pricing as set forth in the General Terms and Conditions.

The contract will be posted on the BuyBoard website as an online electronic catalog(s). **You are reminded that, in accordance with the General Terms and Conditions, all purchase orders must be processed through the BuyBoard.** Except as expressly authorized in writing by the Cooperative's administrator, you are not authorized to process a purchase order received directly from a Cooperative member that has not been processed through the BuyBoard or provided to the Cooperative. If you receive a purchase order directly from a Cooperative member that you have reason to believe has not been received by the Cooperative or processed through the BuyBoard, you must promptly forward a copy of the purchase order by email to info@buyboard.com.

A list of Cooperative members is available on the buyboard.com website. Once the contract is active, the BuyBoard vendor relations staff will be contacting you to assist with the resources available and to provide any support you may need as an awarded BuyBoard vendor.

On behalf of the Cooperative, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, feel free contact me at 800-695-2919.

Sincerely,

Ava Benford, Cooperative Procurement Manager
Texas Association of School Boards, Inc.,
Administrator for The Local Government Purchasing Cooperative

P.O. Box 469, Austin, Texas 78767
800.695.2919 • bids@buyboard.com • buyboard.com

PROPOSER'S ACCEPTANCE AND AGREEMENT

Proposal Invitation Name Medium and Heavy-Duty Trucks, Parts, and Maintenance Repair Service	**Proposal Due Date/Opening Date and Time** August 24, 2023, at 4:00 PM
Proposal Invitation Number 723-23	**Location of Proposal Opening** Texas Association of School Boards, Inc. BuyBoard Department 12007 Research Blvd. Austin, TX 78759
Contract Term December 1, 2023, through November 30, 2024, with two possible one-year renewals.	**Anticipated Cooperative Board Meeting Date** October 2023

By signature below, the undersigned acknowledges and agrees that you are authorized to submit this Proposal, including making all acknowledgements, consents, and certifications herein, on behalf of Proposer and, to the best of your knowledge, the information provided is true, accurate, and complete.

Bond Equipment Co. Inc.
Name of Proposing Company

8/22/2023
Date

2946 Irving Blvd
Street Address

James A Bond
Signature of Authorized Company Official

Dallas TX 76039
City, State, Zip

James A Bond
Printed Name of Authorized Company Official

214-637-0760
Telephone Number of Authorized Company Official

President
Position or Title of Authorized Company Official

214-637-4731
Fax Number of Authorized Company Official

75-0929505
Federal ID Number

14	**Section 4: Battle Motors Vehicles** Base Model Price for **Battle Motors Low Narrow Tilt (LNT) 4x2 – Diesel** - Heavy Duty, Low Narrow Tilt Cab, Class 6, 7, and 8, GVWR 26,000 - 66,000 lbs., Cummins B6.7, 200-380 HP engine, Allison 3000 RDS transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment. Unit Price: $161,880.00 Total: $161,880.00 Manufacturer: Battle Motors Manufacturer #: 167858 Item Notes: **PROPOSAL NOTE 1**: Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2**: A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3**: Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4**: Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

15	**Section 4: Battle Motors Vehicles** Base Model Price for **Battle Motors Low Entry Tilt 2 (LET2) 4x2 – Diesel** - Heavy Duty, Low Entry Tilt Cab, Class 7 and 8, GVWR 46,000 - 72,000 lbs., Cummins L9, 300 - 430 HP engine, Allison 3000 RDS transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment. Unit Price: $175,468.00 Total: $175,468.00 Manufacturer: Battle Motors Manufacturer #: 167858 Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

18	**Section 4: Battle Motors Vehicles** Base Model Price for **Battle Motors Low Narrow Tilt (LNT) 4x2 – Electric** - Heavy Duty, Low Narrow Tilt Cab, Class 6 - 8, GVWR 26,000 - 54,000lbs, BorgWarner Cascadia Motion HVH410-150, 500 HP, Direct Drive transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment. Unit Price: $326,886.00 Total: $326,886.00 Manufacturer: Battle Motors Manufacturer #: 167858 Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s). PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

19 **Section 4: Battle Motors Vehicles**

Base Model Price for **Battle Motors Low Entry Tilt II (LET2) 4x2 – Electric** - Heavy Duty, Low Entry Tilt Cab, Class 6-8, GVWR 33,000 - 72,000lbs, BorgWarner Cascadia Motion HVH410-150, 500 HP, Two Speed Powershift transmission, front axle 20,000lbs, single rear axle 26,000lbs, complete with all manufacturer's standard equipment.

Unit Price: $375,540.00 Total: $375,540.00

Manufacturer: Battle Motors

Manufacturer #: 167858

Item Notes: **PROPOSAL NOTE 1:** Vendors proposing must be approved by the manufacturer to sell, install, and service the brand of equipment submitted. Proposers responding to this Proposal Invitation **shall submit an approval letter** from each manufacturer. Manufacturer authorization letters must include the regions in which equipment may be sold. Manufacturers responding directly to this proposal invitation, in lieu of an authorization letter, must submit a letter explaining that the company is the manufacturer of the products proposed. **PROPOSAL NOTE 2:** A Vendor in Texas must have and maintain for the life of the Contract any Franchise Motor Vehicle Dealer Certificate and/or other license/certificate as required by the Texas Department of Motor Vehicles. If Vendor proposes to serve states other than Texas, Vendor must have any and all licenses or certificates, including franchise motor vehicle dealer certificates or licenses required by each state the Vendor proposes to serve. **Proposers responding to this Proposal Invitation should submit a copy of their dealer certificate(s) and/or license(s).** **PROPOSAL NOTE 3:** Vendors should propose direct replacement models if a vehicle/truck model specified below has been discontinued by the manufacturer. All vehicle ancillary fees to be charged for any purchase from this contract with the exception of **delivery fees** (i.e. applicable state inspection, state title, state registration, dealer document fees, pre-delivery inspection, make ready, and manufacturer destination fees) are to be included in the base model price(s). Vehicle fees not included in the base model price(s) will not be permitted. The Cooperative service fee for vehicles is not a "vehicle fee" and is not to be included in the base price. **Dealer Floor Plan and Lot Insurance** costs will only be allowed for inventory vehicles at the dealer location and/or vehicles scheduled for upfitting by the dealer. These Floor Plan and Lot Insurance fees **shall not** be included in the price of a vehicle for the purpose of this proposal but **must** be listed separately as a line item price on individual quotes for any potential Cooperative member purchase. **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

20	**Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS** Discount (%) off all **Original Equipment Manufacturer (OEM) Options.** Manufacturer specification sheets and upgrade options catalog/pricelist MUST be included, or proposal will not be considered. Total: 10% Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.** Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered: • Select "Add Alternate" for each additional manufacturer product line and/or catalog/pricelist proposed • Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed **Item Attributes** **1. State Name of Catalog/Pricelist Proposed with Discount Percentage** NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed" Options Catalog by Model
21	**Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS** Discount (%) off all **Third Party Options (not OEM) and Unpublished Options and Equipment.** Third Party (not OEM) specification sheets and upgrade options catalog/pricelist MUST be included, or proposal will not be considered. Total: 0% Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.** Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered: • Select "Add Alternate" for each additional manufacturer product line and/or catalog/pricelist proposed • Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed **Item Attributes** **1. State Name of Catalog/Pricelist Proposed with Discount Percentage** NO THIRD PARTY OPTIONS CATALOG

22 **Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS**

Discount (%) off all Original Equipment Manufacturer (OEM) Parts.

Total: 15%

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed"

Battle list price only 2023

23 **Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS**

Discount (%) off all Extended Service Maintenance Agreements.

Total: 0%

Item Notes: **PROPOSAL NOTE 4:** Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. **No paper catalogs or manufacturer/vendor websites will be accepted.**

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

Catalog N/A

24	**Section 5: Battle Motors Model Vehicles OPTIONAL EQUIPMENT and PARTS** Discount (%) off all **Floor Plan Insurance and Lot Insurance** (dealer inventory vehicles and upfitting vehicles). Total: 0%

Item Notes: **PROPOSAL NOTE 4: Vehicle Optional Equipment will be selected by the Cooperative member at the time of quote/order. Vendors shall submit a COMPLETE catalog(s)/pricelist(s) OF ALL OPTIONAL EQUIPMENT AND PARTS with their Proposal response or the Proposal will not be considered. Vendors shall submit catalog(s)/pricelist(s) in a readily available and readable electronic format, with Excel or searchable PDF preferred. No paper catalogs or manufacturer/vendor websites will be accepted.**

Vendors proposing multiple manufacturer product lines and/or catalog/pricelist per line item must submit the information as follows or proposal may not be considered:

- Select **"Add Alternate"** for each additional manufacturer product line and/or catalog/pricelist proposed
- Vendor's must list one specific percentage discount for each manufacturer and/or catalog/pricelist listed

Item Attributes

1. State Name of Catalog/Pricelist Proposed with Discount Percentage

NOTE: Do not include SKU, Reference Numbers, Websites, and/or "See Attached/Enclosed".

Catalog N/A

25	**Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service** **Not to Exceed** hourly labor rate for Medium and Heavy-Duty Truck Installation and or Repair Service. Quantity: 1 UOM: Hourly Labor Rate Price: $176.00 Total: $176.00
26	**Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service** **Not to Exceed** hourly labor rate for Paint and Body Repair. Quantity: 1 UOM: Hourly Labor Rate Price: $145.00 Total: $145.00
27	**Section 6: Battle Motors Model Vehicles Delivery Fees and Labor Rate for Installation and Repair Service** **Not to Exceed** per mile delivery fee for Medium and Heavy-Duty Trucks. Quantity: 1 UOM: Per Mile Delivery Fee Price: $3.85 Total: $3.85

PROPOSAL FORMS PART 1: COMPLIANCE FORMS

INSTRUCTIONS:

Proposer must review and complete all forms in this Proposal Forms Part 1:

- Proposal Acknowledgements
- Felony Conviction Disclosure
- Resident/Nonresident Certification
- Debarment Certification
- Vendor Employment Certification
- No Boycott Verification
- No Excluded Nation or Foreign Terrorist Organization Certification
- Historically Underutilized Business Certification
- Acknowledgement of BuyBoard Technical Requirements
- Construction-Related Goods and Services Affirmation
- Deviation and Compliance
- Vendor Consent for Name Brand Use
- Confidential/Proprietary Information
- EDGAR Vendor Certification
- Compliance Forms Signature Page

An authorized representative of Proposer *must initial in the bottom right corner of each page* where indicated and complete and sign the Compliance Forms Signature Page. Proposer's failure to fully complete, initial, and sign forms as required may result in your Proposal being rejected as non-responsive.

PROPOSAL ACKNOWLEDGEMENTS

The proposing company ("you" or "your") hereby acknowledges and agrees as follows:

1. You have carefully examined and understand all information and documentation associated with this Proposal Invitation, including the Instructions to Proposers, General Information, General Terms and Conditions, attachments/forms, appendices, item specifications, and line items (collectively "Requirements");
2. By your response ("Proposal") to this Proposal Invitation, you propose to supply the products or services submitted at the pricing quoted in your Proposal and in strict compliance with the Requirements, unless specific deviations or exceptions are noted in the Proposal;
3. By your Proposal, you acknowledge and certify all items set forth in the General Terms and Conditions, Section B.12 (Certifications), including all non-collusion certifications and certifications regarding legal, ethical, and other matters set forth therein.
4. Any and all deviations and exceptions to the Requirements have been noted in your Proposal on the required form and no others will be claimed;

Initial: AB

5. If the Cooperative accepts any part of your Proposal and awards you a Contract, you will furnish all awarded products or services at the pricing quoted and in strict compliance with the Requirements (unless specific deviations or exceptions are noted on the required form and accepted by the Cooperative), including without limitation the Requirements related to:
   a. conducting business with Cooperative members, including offering pricing to members that is the best you offer compared to similarly situated customers in similar circumstances;
   b. payment of a service fee in the amount specified and as provided for in this Proposal Invitation;
   c. the possible award of a piggy-back contract by the National Purchasing Cooperative or nonprofit entity, in which event you will offer the awarded products and services in accordance with the Requirements; and
   d. submitting price sheets or catalogs in the proper format as required by the Cooperative as a prerequisite to activation of your Contract;
6. You have clearly identified on the included form any information in your Proposal that you believe to be confidential or proprietary or that you do not consider to be public information subject to public disclosure under the Texas Public Information Act or similar public information law;
7. The individual submitting this Proposal is duly authorized to enter into the contractual relationship represented by this Proposal Invitation on your behalf and bind you to the Requirements, and such individual (and any individual signing a form or Proposal document) is authorized and has the requisite knowledge to provide the information and make the representations and certifications required in the Requirements;
8. You have carefully reviewed your Proposal, and certify that all information provided is true, complete, and accurate to the best of your knowledge, and you authorize the Cooperative to take such action as it deems appropriate to verify such information; and
9. Any misstatement, falsification, or omission in your Proposal, whenever or however discovered, will be grounds for disqualifying you from consideration for a contract award under this Proposal Invitation, termination of a contract award, or any other remedy or action provided for in the General Terms and Conditions or by law.

FELONY CONVICTION DISCLOSURE

Subsection (a) of Section 44.034 of the Texas Education Code (Notification of Criminal History of Contractor) states: "A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Section 44.034 further states in Subsection (b): "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

Please check (√) one of the following:

☐ My company is a publicly-held corporation. (Advance notice requirement does not apply to publicly-held corporation.)
☐ My company is not owned or operated by anyone who has been convicted of a felony.
☐ My company is owned/operated by the following individual(s) who has/have been convicted of a felony:

Name of Felon(s): _____

Details of Conviction(s): _____

Initial: AB

RESIDENT/NONRESIDENT CERTIFICATION

Chapter 2252, Subchapter A, of the Texas Government Code establishes certain requirements applicable to proposers who are not Texas residents. Under the statute, a "resident" proposer is a person whose principal place of business is in Texas, including a contractor whose ultimate parent company or majority owner has its principal place of business in Texas. A "nonresident" proposer is a person who is not a Texas resident. Please indicate the status of your company as a "resident" proposer or a "nonresident" proposer under these definitions.

Please check (√) one of the following:

☑ I certify that my company is a **Resident Proposer.**
☐ I certify that my company is a **Nonresident Proposer.**

If your company is a Nonresident Proposer, you must provide the following information for your resident state (the state in which your company's principal place of business is located):

Company Name _____ Address _____

City _____ State _____ Zip Code _____

A. Does your resident state require a proposer whose principal place of business is in Texas to under-price proposers whose resident state is the same as yours by a prescribed amount or percentage to receive a comparable contract?

☐ Yes ☐ No

B. What is the prescribed amount or percentage? $_____ or _____%

DEBARMENT CERTIFICATION

By signature on the Compliance Forms Signature Page, I certify that neither my company nor an owner or principal of my company has been debarred, suspended or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549, "Debarment and Suspension," as described in the Federal Register and Rules and Regulations. Neither my company nor an owner or principal of my company is currently listed on the government-wide exclusions in SAM, debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority. My company agrees to immediately notify the Cooperative and all Cooperative members with pending purchases or seeking to purchase from my company if my company or an owner or principal is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under any statutory or regulatory authority.

VENDOR EMPLOYMENT CERTIFICATION

Section 44.031(b) of the Texas Education Code establishes certain criteria that a school district must consider when determining to whom to award a contract. Among the criteria for certain contracts is whether the vendor or the vendor's ultimate parent or majority owner (i) has its principal place of business in Texas; or (ii) employs at least 500 people in Texas. If neither your company nor the ultimate parent company or majority owner has its principal place of business in Texas, does your company, ultimate parent company, or majority owner employ at least 500 people in Texas?

Please check (√) one of the following:

☐ Yes ☒ No

Initial: AB

NO BOYCOTT VERIFICATION

A Texas governmental entity may not enter into a contract with a value of $100,000 or more that is to be paid wholly or partly from public funds with a company (excluding a sole proprietorship) that has 10 or more full-time employees for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel and will not boycott Israel during the term of the contract (TEX. GOV'T CODE Ch. 2271), (2) does not boycott energy companies and will not boycott energy companies during the term of the contract (TEX. GOV'T CODE Ch. 2274 effective September 1, 2021), and (3) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association (TEX. GOV'T CODE Ch. 2274 effective September 1, 2021). Accordingly, this certification form is included to the extent required by law.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. TEX. GOV'T CODE §808.001(1).

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by Paragraph (A). TEX. GOV'T CODE §809.001(1) (effective September 1, 2021).

"Discriminate against a firearm entity or firearm trade association" means, (A) with respect to the entity or association, to: (I) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (II) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (III) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; and (B) does not include: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (II) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association. TEX. GOV'T CODE §2274.001(3) (effective September 1, 2021).

By signature on the Compliance Forms Signature Page, to the extent applicable, I certify and verify that Vendor does not boycott Israel, boycott energy companies, or discriminate against a firearm entity or firearm trade association and will not do so during the term of any contract awarded under this Proposal Invitation, that this certification is true, complete and accurate, and that I am authorized by my company to make this certification.

Initial: AB

NO EXCLUDED NATION OR FOREIGN TERRORIST ORGANIZATION CERTIFICATION

Chapter 2252 of the Texas Government Code provides that a Texas governmental entity may not enter into a contract with a company engaged in active business operations with Sudan, Iran, or a foreign terrorist organization – specifically, any company identified on a list prepared and maintained by the Texas Comptroller under Texas Government Code §§806.051, 807.051, or 2252.153. (A company that the U.S. Government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, Iran, or any federal sanctions regime relating to a foreign terrorist organization is not subject to the contract prohibition.)

By signature on the Compliance Forms Signature Page, I certify and verify that Vendor is not on the Texas Comptroller's list identified above; that this certification is true, complete and accurate; and that I am authorized by my company to make this certification.

HISTORICALLY UNDERUTILIZED BUSINESS CERTIFICATION

A Proposer that has been certified as a Historically Underutilized Business (also known as a Minority/Women Business Enterprise or "MWBE" and all referred to in this form as a "HUB") is encouraged to indicate its HUB certification status when responding to this Proposal Invitation. The BuyBoard website will indicate HUB certifications for awarded Vendors that properly indicate and document their HUB certification on this form. *(Please check (√) all that apply)*

☐ I certify that my company has been certified as a HUB in the following categories:

☐ **Minority Owned Business** ☐ **Women Owned Business**
☐ **Service-Disabled Veteran Owned Business (veteran defined by 38 U.S.C. §101(2), who has a service-connected disability as defined by 38 U.S.C. § 101(16), and who has a disability rating of 20% or more as determined by the U. S. Department of Veterans Affairs or Department of Defense)**

Certification Number: _____

Name of Certifying Agency: _____

☒ My company has NOT been certified as a HUB.

ACKNOWLEDGEMENT OF BUYBOARD TECHNICAL REQUIREMENTS

Vendor shall review the BuyBoard Technical Requirements included in this Proposal Invitation. By signature on the Compliance Forms Signature Page, the undersigned affirms that Proposer has obtained a copy of the BuyBoard Technical Requirements, has read and understands the requirements, and certifies that Vendor is able to meet and will comply with those requirements except as follows: *[List and explain BuyBoard Technical Requirements, if any, to which your company cannot or will not comply.]*

_____

_____

Note: In accordance with the General Terms and Conditions of the Contract, to the extent Vendor is awarded a Contract under this Proposal Invitation but is unable or unwilling to meet the applicable BuyBoard Technical Requirements, the information available on the BuyBoard for Vendor's awarded products or services may be limited, potentially placing Vendor at a disadvantage and impacting the ability of Cooperative members to search, find, review, and purchase Vendor's awarded products and services on the BuyBoard website. Further, to the extent Vendor has acknowledged ability to meet and comply with the BuyBoard Technical Requirements, any subsequent failure or refusal by Vendor to promptly provide information upon request to the Cooperative administrator in accordance with those technical requirements may be deemed an event of default under the Contract.

Initial: AB

P.O. Box 400, Austin, Texas 78767
800.695.2919 • bids@buyboard.com • buyboard.com

CONSTRUCTION-RELATED GOODS AND SERVICES AFFIRMATION

The Cooperative issued the BuyBoard Procurement and Construction-Related Goods and Services Advisory for Texas Members ("Advisory"), which provides information specifically relevant to the procurement of construction-related goods and services by Texas Cooperative members. The Advisory, available at buyboard.com/Vendor/Resources.aspx, provides an overview of certain legal requirements that are potentially relevant to a Cooperative member's procurement of construction or construction-related goods and services, including those for projects that may involve or require architecture, engineering or independent testing services. A copy of the Advisory can also be provided upon request. Because many BuyBoard contracts include goods or installation services that might be considered construction-related, Proposer must make this Construction Related-Goods and Services Affirmation regardless of type of goods or services associated with this Proposal Invitation.

A contract awarded under this Proposal Invitation covers only the specific goods and/or services awarded by the Cooperative. As explained in the Advisory ("Advisory"), **Texas law prohibits the procurement of architecture or engineering services through a purchasing cooperative. This Proposal Invitation and any Contract awarded thereunder does not include such services. Architecture or engineering services must be procured by a Cooperative member separately, in accordance with the Professional Services Procurement Act (Chapter 2254 of the Texas Government Code) and other applicable law and local policy.**

By signature on the Compliance Forms Signature Page, Proposer affirms that Proposer has obtained a copy of the Advisory, has read and understands the Advisory, and is authorized by Proposer to make this affirmation. If Proposer sells construction-related goods or services to a Cooperative member under a Contract awarded under this Proposal Invitation, Proposer will comply with the Advisory and applicable legal requirements, make a good faith effort to make its Cooperative member customers or potential Cooperative member customers aware of such requirements, and provide a Cooperative member with a copy of the Advisory before accepting the member's Purchase Order or other agreement for construction-related goods or services.

Initial: AB

DEVIATION AND COMPLIANCE

If your company intends to deviate from the General Terms and Conditions, Proposal Specifications or other requirements associated with this Proposal Invitation, you MUST list all such deviations on this form, and provide complete and detailed information regarding the deviations on this form or an attachment to this form. Prior to completing this form, Vendor shall review the General Terms and Conditions section B.4 (Deviations from Item Specifications and General Terms and Conditions). Please note that, as provided in section B.4, certain provisions of the General Terms and Conditions are NOT subject to deviation, and certain deviations will be deemed rejected without further action by the Cooperative. Any attempted deviation, whether directly or indirectly, to provisions identified in this Proposal Invitation as not subject to deviation shall be deemed rejected by the Cooperative and, unless otherwise withdrawn by Vendor, may result in Vendor's Proposal being rejected in its entirety.

The Cooperative will consider any deviations in its contract award decision and reserves the right to accept or reject a proposal based upon any submitted deviation.

In the absence of any deviation identified and described in accordance with the above, your company must fully comply with the General Terms and Conditions, Proposal Specifications and all other requirements associated with this Proposal Invitation if awarded a Contract under this Proposal Invitation. A deviation will not be effective unless accepted by the Cooperative. The Cooperative, by and through the Cooperative administrator, may, in its sole discretion, seek clarification from and/or communicate with Proposer(s) regarding any submitted deviation, consistent with general procurement principles of fair competition. The Cooperative reserves the right to accept or reject a Proposal based upon any submitted deviation.

Please check (√) one of the following:

☒ **No**; Deviations
☐ **Yes**; Deviations

List and fully explain any deviations you are submitting:

Initial: AB

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VENDOR CONSENT FOR NAME BRAND USE

BuyBoard members seeking to make purchases using a Contract awarded under this Proposal Invitation may view information regarding awarded Vendors, including but not limited to product catalogs, pricelists, pricing, and Proposals, through the BuyBoard website. To improve and enhance the experience of BuyBoard members seeking to procure goods and services under the Contract utilizing the BuyBoard website, any Vendor logo, product images, and similar brand and trademark information provided by Vendor for purposes of the Contract ("Vendor Information") may be posted on the BuyBoard website.

You acknowledge that, by submitting your Proposal, unless you specifically opt out below, you consent to use of your company's Vendor Information on the BuyBoard website if awarded a Contract. You further acknowledge that whether, where, and when to include the Vendor Information on the BuyBoard website shall be at the sole discretion of the BuyBoard Administrator. Vendor retains, however, the right of general quality control over the BuyBoard Administrator's authorized display of proprietary Vendor Information. Neither the BuyBoard nor its administrator will be responsible for the use or distribution of Vendor Information by BuyBoard members or any other third party using the BuyBoard website. This Vendor Consent shall be effective for the full term of the Contract, including renewals, unless Vendor provides a signed, written notice revoking consent to contractadmin@buyboard.com. BuyBoard shall have up to thirty days from the date of receipt of a termination or revocation of a Vendor Consent to remove Vendor information from the BuyBoard website.

This Vendor Consent is subject to the Terms and Conditions of the Contract, including, but not limited to, those terms pertaining to Disclaimer of Warranty and Limitation of Liability, Indemnification, and Intellectual Property Infringement.

Vendor logo files must be submitted in one of the formats set forth in the BuyBoard Technical Requirements. Proposers are requested to submit this information with Vendor's Proposal. (This consent shall not authorize use of your company's Vendor Information by BuyBoard if your company is not awarded a Contract.)

OPT OUT:

If your company wishes to opt out of the Vendor Consent for Name Brand Use, you must check the opt out box below. ***DO NOT select this box unless your company is opting out of this Vendor Consent for Name Brand Use.***

☐ By checking this box, Vendor hereby declines to provide consent for use of Vendor Information (as defined herein) on the BuyBoard website. **By opting out, Vendor acknowledges and agrees that, if Vendor is awarded a Contract under this Proposal Invitation, information available on the BuyBoard for Vendor's awarded products or services may be limited, potentially placing Vendor at a disadvantage and impacting the ability of Cooperative members to search, find, review, and purchase Vendor's awarded products and services on the BuyBoard website.**

Initial: AB

CONFIDENTIAL/PROPRIETARY INFORMATION

A. Public Disclosure Laws

All Proposals, forms, documentation, catalogs, pricelists, or other materials submitted by Vendor to the Cooperative in response to this Proposal Invitation, may be subject to the disclosure requirements of the Texas Public Information Act (Texas Government Code chapter 552.001, *et. seq.*) or similar disclosure law. Proposer must clearly identify on this form any information in its Proposal (including forms, documentation, or other materials submitted with the Proposal) that Proposer considers proprietary or confidential. If Proposer fails to properly identify the information, the Cooperative shall have no obligation to notify Vendor or seek protection of such information from public disclosure should a member of the public or other third party request access to the information under the Texas Public Information Act or similar disclosure law. When required by the Texas Public Information Act or other disclosure law, Proposer may be notified of any third-party request for information in a Proposal that Proposer has identified in this form as proprietary or confidential.

Does your Proposal (including forms, documentation, catalogs, pricelists, or other materials submitted with the Proposal) contain information which Vendor considers proprietary or confidential?

Please check (√) one of the following:

☒ **NO,** I certify that none of the information included with this Proposal is considered confidential or proprietary.

☐ **YES,** I certify that this Proposal contains information considered confidential or proprietary and all such information is specifically identified on this form.

If you responded "YES", you must clearly identify below the specific information you consider confidential or proprietary. List each page number, form number, or other information sufficient to make the information readily identifiable. The Cooperative and Cooperative administrator shall not be responsible for a Proposer's failure to clearly identify information considered confidential or proprietary. Further, by submitting a Proposal, Proposer acknowledges that the Cooperative and Cooperative administrator will disclose information when required by law, even if such information has been identified herein as information Vendor considers confidential or proprietary.

Confidential / Proprietary Information:

_____

_____

_____

_____

_____

(Attach additional sheets if needed.)

Initial: AB

B. Copyright Information

Does your Proposal (including forms, documentation, pricelists, catalogs, or other materials submitted with the Proposal) contain copyright information?

Please check (√) one of the following:

☒ **NO,** Proposal (including forms, documentation, pricelists, catalogs, or other materials submitted with the Proposal) does not contain copyright information.

☐ **YES,** Proposal (including forms, documentation, pricelists, catalogs, or other materials submitted with the Proposal) does contain copyright information.

If you responded "YES", clearly identify below the specific documents or pages containing copyright information.

Copyright Information: _____

_____

_____

_____

(Attach additional sheets if needed.)

C. Consent to Release Confidential/Proprietary/Copyright Information to BuyBoard Members

BuyBoard members (Cooperative and nonprofit members) seeking to make purchases through the BuyBoard may wish to view information included in the Proposals of awarded Vendors. If you identified information on this form as confidential, proprietary, or subject to copyright, and you are awarded a BuyBoard contract, your acceptance of the BuyBoard contract award constitutes your consent to the disclosure of such information to BuyBoard members, including posting of such information on the secure BuyBoard website for members. Note: Neither the Cooperative nor Cooperative administrator will be responsible for the use or distribution of information by BuyBoard members or any other party.

D. Consent to Release Proposal Tabulation

Notwithstanding anything in this Confidential/Proprietary Information form to the contrary, by submitting a Proposal, Vendor consents and agrees that, upon Contract award, the Cooperative may publicly release, including posting on the public BuyBoard website, a copy of the proposal tabulation and award information for the Contract including Vendor name; proposed catalog/pricelist name(s); proposed percentage discount(s), hourly labor rate(s), or other specified pricing; and Vendor award or non-award information.

Initial: AB

P.O. Box 400, Austin, Texas 78767
800.695.2868 • bids@buyboard.com • buyboard.com

STATE SERVICE DESIGNATION

This form must be completed in the electronic proposal submission system (or, if submitting a hard copy Proposal, timely request and complete the in accordance with the Instructions to Proposers).

As set forth in the Proposal Invitation, it is the Cooperative's intent that other governmental entities in the United States have the opportunity to purchase goods or services awarded under the Contract, subject to applicable state law, through a piggy-back award or similar agreement through the National Purchasing Cooperative BuyBoard. If you plan to service the entire United States or only specific states, *you must complete the State Service Designation information in the electronic proposal submission system. (Note: If you plan to service Texas Cooperative members, be sure that you complete the Texas Regional Service Designation form.) In addition to this form, to be considered for a piggy-back award by the National Purchasing Cooperative, you must have an authorized representative sign the National Purchasing Cooperative Vendor Award Agreement that follows this page.*

If you serve different states for different products or services included in your Proposal, you must complete and submit a separate State Service Designation form for each group of products and clearly indicate the products or services to which the designation applies. **(Additional forms can be obtained by contacting bids@buyboard.com** ***at least five (5) business days prior to the Proposal Due Date.) By designating a state or states, you are certifying that you are authorized and willing to provide the proposed products and services in those states. Designating states in which you are either unable or unwilling to provide the specified products and services shall be grounds for either rejection of your Proposal or, if awarded, termination of your Contract.***

- I will service all states in the United States.
- I will not service all states in the United States.

Alabama
Alaska
Arizona
Arkansas
California (Public Contract Code 20118 & 20652)
Colorado
Connecticut
Delaware
District of Columbia
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming

NATIONAL PURCHASING COOPERATIVE VENDOR AWARD AGREEMENT

In accordance with the Terms and Conditions associated with this Proposal Invitation, a contract awarded under this Proposal Invitation may be "piggy-backed" by another governmental entity. The National Purchasing Cooperative is an intergovernmental purchasing cooperative formed by certain school districts outside of Texas to serve its members throughout the United States. If you agree to be considered for a piggy-back award by the National Purchasing Cooperative, you agree to the following terms and agree to serve National Purchasing Cooperative members in the states you have indicated on the State Service Designation form, in your Proposal.

By signing this form, Proposer (referred to in this Agreement as "Vendor") agrees as follows:

1. Vendor acknowledges that if The Local Government Purchasing Cooperative ("Texas Cooperative") awards Vendor a contract under this Proposal Invitation ("Underlying Award"), the National Purchasing Cooperative ("National Cooperative") may - but is not required to - "piggy-back" on or re-award all or a portion of that Underlying Award ("Piggy-Back Award"). By signing this National Cooperative Vendor Award Agreement ("Agreement"), Vendor accepts and agrees to be bound by any such Piggy-Back Award as provided for herein.

2. In the event National Cooperative awards Vendor a Piggy-Back Award, the National Cooperative Administrator ("BuyBoard Administrator") will notify Vendor in writing of such Piggy-Back Award, which award shall commence on the effective date stated in the Notice and end on the expiration date of the Underlying Award, subject to annual renewals as authorized in writing by the BuyBoard Administrator. Vendor agrees that no further signature or other action is required of Vendor in order for the Piggy-Back Award and this Agreement to be binding upon Vendor. Vendor further agrees that no interlineations or changes to this Agreement by Vendor will be binding on National Cooperative, unless such changes are agreed to by its BuyBoard Administrator in writing.

3. Vendor agrees that it shall offer its goods and services to National Cooperative members at the same pricing and same general terms and conditions, subject to applicable state laws in the state of purchase, as required by the Underlying Award. However, nothing in this Agreement prevents Vendor from offering National Cooperative members better (i.e., lower) competitive pricing and more favorable terms and conditions than those in the Underlying Award.

4. Vendor hereby agrees and confirms that it will serve those states it has designated on the State Service Designation Form of this Proposal Invitation. Any changes to the states designated on the State Service Designation Form must be approved in writing by the BuyBoard Administrator.

5. Vendor agrees to pay National Cooperative the service fee provided for in the Underlying Award based on the amount of purchases generated from National Cooperative members through the Piggy-Back Award. Vendor shall remit payment to National Cooperative on such schedule as it specifies (which shall not be more often than monthly). Further, upon request, Vendor shall provide National Cooperative with copies of all purchase orders generated from National Cooperative members, vendor invoices, and/or such other documentation regarding those purchase orders as the Cooperative's administrators may require in their reasonable discretion for purposes of reviewing and verifying purchase activity. Vendor further agrees that National Cooperative shall have the right, upon reasonable written notice, to review Vendor's records pertaining to purchases made by National Cooperative members in order to verify the accuracy of service fees.

6. Vendor agrees that the Underlying Award, including its General Terms and Conditions, are adopted by reference to the fullest extent such provisions can reasonably apply to the post-proposal/contract award phase. The rights and responsibilities that would ordinarily inure to the Texas Cooperative pursuant to the Underlying Award shall inure to National Cooperative; and, conversely, the rights and responsibilities that would ordinarily inure to Vendor in the Underlying Award shall inure to Vendor in this Agreement. Vendor recognizes and agrees that Vendor and National Cooperative are the only parties to this Agreement, and that nothing in this Agreement has application to other third parties, including the Texas Cooperative. In the event of conflict between this Agreement and the terms of the Underlying Award, the terms of this Agreement shall control, and then only to the extent necessary to reconcile the conflict.
7. This Agreement shall be governed and construed in accordance with the laws of the State of Texas and venue for any dispute shall lie in the federal district court of Travis County, Texas.

8. Vendor acknowledges and agrees that the award of a Piggy-Back Award is within the sole discretion of National Cooperative, and that this Agreement does not take effect unless and until National Cooperative awards Vendor a Piggy-Back Award and the BuyBoard Administrator notifies Vendor in writing of such Piggy-Back Award as provided for herein.

WHEREFORE, by signing below Vendor agrees to the foregoing and warrants that it has the authority to enter into this Agreement.

Bond Equipment Co. Inc	723-23
Name of Vendor	Proposal Invitation Number
James A Bond	James A Bond
Signature of Authorized Company Official	Printed Name of Authorized Company Official

8/22/2023

Date

FRANCHISED MOTOR VEHICLE DEALER

LICENSE NO: A134446

GENERAL DISTINGUISHING NUMBER:

MOTOR VEHICLE DIVISION

P111010 Motor Vehicle

P134447X Utility Trailer/Semi-Trailer

BOND EQUIPMENT COMPANY, INC.
2946 IRVING BLVD
DALLAS, TEXAS DALLAS 75247-6211

EXPIRES: 03-31-2024
PHYSICAL LOCATION:
2946 IRVING BLVD
DALLAS, TEXAS DALLAS 75247-6211

THIS DEALERSHIP IS LICENSED TO ONLY SELL THE FOLLOWING LINE(S) OF NEW MOTOR VEHICLES:

Battle Motors : HT-Heavy Truck, Crane Carrier : HT-Heavy Truck

ADDITIONAL LOCATION(S): For used vehicle sales only

HAVING SATISFIED THE APPLICABLE REQUIREMENTS OF CHAPTER 2301 OF THE TEXAS OCCUPATIONS CODE, CHAPTER 503 OF THE TEXAS TRANSPORTATION CODE, AND THE RULES OF THE BOARD, THE PERSON NAMED ABOVE IS HEREBY LICENSED WITH THE TEXAS DEPARTMENT OF MOTOR VEHICLES, MOTOR VEHICLE DIVISION.

Monique Johnston

Monique Johnston, Director
Texas Department of Motor Vehicles
Motor Vehicle Division

WARNING: PENAL CODE SECTION 37.10, PROVIDES THAT TAMPERING WITH A GOVERNMENTAL RECORD IS AN OFFENSE PUNISHABLE AS A SECOND-DEGREE FELONY.

DocuSign Envelope ID: FBE2B6FF-8CB0-422F-97BF-56686308F619

BATTLE MOTORS

To BuyBoard, 12007 Research Blvd, Austin, TX 78759, Contract # 723-23,

Bond Equipment Company, Inc., is an authorized dealer of Battle Motors products.

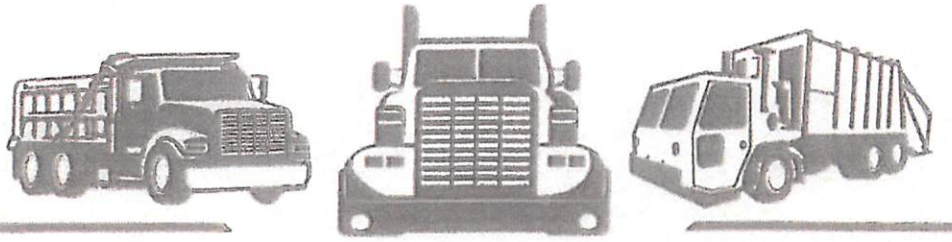
David Raglin

DocuSigned by:
David Raglin
49A15B70877A40A...

Vice President of Sales – Southwest
draglin@battlemotors.com
918.605.4972

BATTLE MOTORS
AUTHORIZED DEALER

BOND EQUIPMENT



BOND EQUIPMENT

To: City of Sante Fe

1/14/2025

Bond Equipment will supply the units in the guidelines of the Buyboard Contract 732-23. Purchase orders will need to be submitted to Bond Equipment and to the Buyboard.

Please submit purchase order for Buyboard to email below.
info@buyboard.com

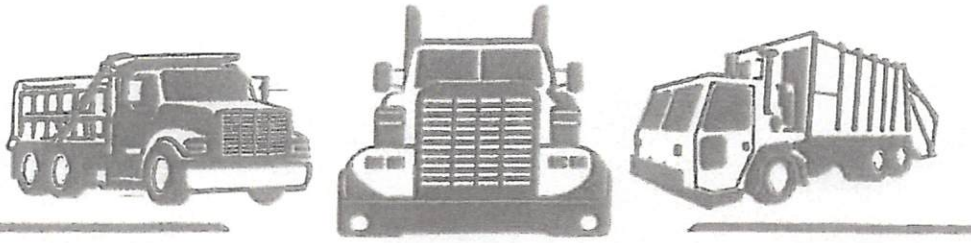
For any questions or concerns, please reach out to:
Aubrie Basco
Aubrie@bondequipment.com
m. 972-513-5105

AB

2946 Irving Blvd
214-637-0760

Dallas, TX 75247
214-637-4731 Fax

Vend 10834



BOND EQUIPMENT

To: City of Sante Fe

1/14/2025

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Please submit purchase order for Buyboard to email below.
info@buyboard.com

For any questions or concerns, please reach out to:
Aubrie Basco
Aubrie@bondequipment.com
m. 972-513-5105

AB

2946 Irving Blvd
214-637-0760

Dallas, TX 75247
214-637-4731 Fax

Signature: Lawrence Garcia

Email: lmgarcia@santafenm.gov

Signature: DEBORA TRUJILLO (Feb 3, 2025 12:49 MST)

Email: dctrujillo@santafenm.gov

Signature:

Email: jdroach@santafenm.gov

City of Santa Fe New Mexico

Memorandum

DATE: February 10, 2025

TO: **David Jaramillo, Fleet Section Manager** DJ
Rob Corabi, Accounting Manager RC

FROM: **Lawrence Garcia, ESD Fleet Manager** LG

ISSUE: **Request Approval to Purchase of two Rear-Loading collection vehicles.**

BACKGROUND AND SUMMARY:
The Public Utilities Department needs to replace two Rear-Loading collection vehicles, in the Total Amount of $805,068 excluding tax

The collection vehicles which are proposed for replacement are:
Asset #54771–a 2014 Crain Carrier which is over ten years old.
Asset #54772– a 2014 Crain Carrier Which is over ten years old.

These vehicles are over ten years old and have electrical problems which will need to be sent out for third party for the replacement of the entire wiring harness.

RECOMMENDED ACTION:

The Department is respectfully requesting your approval for the purchase of these proposed vehicles.

Approval Signatures:

David Jaramillo (Feb 10, 2025 08:21 MST)
David Jaramillo, Fleet Section Manager

Robert Corabi (Feb 10 2025 10:07 MST)
Rob Corabi, Accounting Manager

Signature: Lawrence Garcia

Email: lmgarcia@santafenm.gov

City of Santa Fe, New Mexico

Memorandum

DATE: January 24, 2025

TO: Public Works and Utilities Committee
Finance Committee
Governing Body

VIA: Jesse Roach, Interim Public Utilities Director JR
Deborah Trujillo, Interim Environmental Services Division Director DT
Michael Dozier, Wastewater Division Director MD

FROM: Nancy Jimenez, PUD, Utility Billing Division Director NLJ

RE: BAR to Utility Billing and Customer Service Division for Temporary Professional Staffing

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ITEM AND ISSUE:

The Utility Billing and Customer Service Division of the Public Utilities Department is requesting approval for a Budget Amendment Resolution (BAR) in the amount of $150,000.00 for temporary professional staffing needs.

BACKGROUND AND SUMMARY:

Public Utilities Department is understaffed and needs to meet immediate staffing needs.

FUNDING SOURCE:

Funding is available in the Public Utilities Cash Enterprise Funds.

REQUESTED ACTION:

Request approval of a BAR to increase budget in Org/Obj 5115501.510310.

ATTACHMENTS:

BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
PUD/Utility Billing Division	1/24/205

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
PU Admin/Service Contracts	5115501	510310		150,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 150,000	$ -

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

Budget increase needed for temporary staffing needs

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
505	100,000
510	25,000
500	25,000
TOTAL:	**150,000**

Virginia Wolff for Nancy Jimenez — 1/24/2025
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Jan 24, 2025
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Jan 27, 2025
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Signature: Nancy L. Jimenez
Nancy L. Jimenez (Jan 25, 2025 07:34 MST)

Email: nljimenez@santafenm.gov

Signature:

Email: mldozier@santafenm.gov

Signature:
DEBORA TRUJILLO (Jan 27, 2025 13:07 MST)

Email: dctrujillo@santafenm.gov

Temporary Staffing Memo and BAR 2025.xls

Final Audit Report 2025-01-27

Created:	2025-01-24
By:	Gina Wolff (vawolff@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXdR_6d1S_w_A92i-B4g7fQqJ0wEpo1Zs

"Temporary Staffing Memo and BAR 2025.xls" History

Document created by Gina Wolff (vawolff@santafenm.gov)
2025-01-24 - 10:58:21 PM GMT- IP address: 63.232.20.2

Document emailed to Jesse Roach (jdroach@santafenm.gov) for signature
2025-01-24 - 11:01:06 PM GMT

Email viewed by Jesse Roach (jdroach@santafenm.gov)
2025-01-24 - 11:13:04 PM GMT- IP address: 104.47.64.254

Document e-signed by Jesse Roach (jdroach@santafenm.gov)
Signature Date: 2025-01-24 - 11:14:03 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to Nancy Jimenez (nljimenez@santafenm.gov) for signature
2025-01-24 - 11:14:04 PM GMT

Email viewed by Nancy Jimenez (nljimenez@santafenm.gov)
2025-01-25 - 2:33:20 PM GMT- IP address: 104.47.65.254

Signer Nancy Jimenez (nljimenez@santafenm.gov) entered name at signing as Nancy L. Jimenez
2025-01-25 - 2:34:10 PM GMT- IP address: 63.232.20.2

Document e-signed by Nancy L. Jimenez (nljimenez@santafenm.gov)
Signature Date: 2025-01-25 - 2:34:12 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to MICHAEL DOZIER (mldozier@santafenm.gov) for signature
2025-01-25 - 2:34:13 PM GMT

Email viewed by MICHAEL DOZIER (mldozier@santafenm.gov)
2025-01-25 - 2:37:56 PM GMT- IP address: 75.161.84.197

Document e-signed by MICHAEL DOZIER (mldozier@santafenm.gov)
Signature Date: 2025-01-25 - 2:39:06 PM GMT - Time Source: server- IP address: 75.161.84.197

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Document emailed to DEBORA TRUJILLO (dctrujillo@santafenm.gov) for signature

2025-01-25 - 2:39:08 PM GMT

Email viewed by DEBORA TRUJILLO (dctrujillo@santafenm.gov)

2025-01-27 - 8:06:38 PM GMT- IP address: 104.47.64.254

Document e-signed by DEBORA TRUJILLO (dctrujillo@santafenm.gov)

Signature Date: 2025-01-27 - 8:07:17 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature

2025-01-27 - 8:07:19 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)

2025-01-27 - 11:18:32 PM GMT- IP address: 104.47.64.254

Document e-signed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)

Signature Date: 2025-01-27 - 11:18:55 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2025-01-27 - 11:18:55 PM GMT

City of Santa Fe, New Mexico
Memorandum

DATE: February 11, 2025

TO: Governing Body

VIA: Emily Oster, Finance Director
Alexis Lotero, Assistant Finance

FROM: Eric Candelaria, ITT Department Director

Eric Candelaria (Feb 11, 2025 13:31 MST)

SUBJECT: One-Time Funding Request

ITEMS AND ISSUE:
Finance/ITT Department requests the approval of Budget Amendment Resolution (BAR) in the amount of $300,000 from one-time funding available in the general fund balance for storage of video footage on City servers. (Eric Candelaria ITT Director; edcandeleria@santafenm.gov)

BACKGROUND AND SUMMARY:
Storage of Video footage on City servers is greatly impacting the available storage space of our data centers. This purchase is for hardware and licensing to enable onsite and cloud-based backup and archival for video data utilized by the City Attorney's Office for IPRA requests and Prosecution. All storage complies with the City Attorney's office legal storage requirements.

ACTION REQUESTED:
Finance/ITT Department respectfully requests the approval of funds for storage of video footage on City servers

FUNDING SOURCE:
Fund Name/Number: ITT/620
Munis Org Name / Number: Data Processing Equipment / 572800 $300,000

ATTACHEMENTS:
BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
Information Technology & Telecommunications / Infrastructure Services	2/6/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Data Processing Equipment < $5,000	6203650	572800		300,000	
ITT (General Fund) / Transfer to ITT (Services of Other Departments Fund)	1003501	750620		300,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
ITT (Services of Other Departments Fund) / Transfer from ITT (General Fund)	6203650	650100		(300,000)	
				$ 300,000	$ -

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

Appropriation from available General Fund balance for hardware and licensing to enable on-site and cloud-based backup and archival services for video data used by the City Attorney's Office for IPRA requests and compliance with legal storage requirements

[see attached memo]

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(300,000)
TOTAL:	**(300,000)**

Andy Hopkins — Prepared By *{print name}* — 2/6/2025 Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Division Director Signature *{optional}* — Date

Department Director Signature — Date

ALEXIS LOTERO (Feb 12, 2025 13:31 MST) — Budget Officer — Feb 12, 2025 Date

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

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

Bar ITT IPRA RFS

Final Audit Report 2025-02-12

Created:	2025-02-12
By:	ERMINIA TAPIA (emtapia@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyJ1iWIhWeV8BaRII0KeKpPH0XaJqiTLE

"Bar ITT IPRA RFS" History

Document created by ERMINIA TAPIA (emtapia@santafenm.gov)
2025-02-12 - 8:29:34 PM GMT- IP address: 63.232.20.2

Document emailed to ALEXIS LOTERO (aclotero@santafenm.gov) for signature
2025-02-12 - 8:30:22 PM GMT

Email viewed by ALEXIS LOTERO (aclotero@santafenm.gov)
2025-02-12 - 8:31:07 PM GMT- IP address: 104.47.64.254

Document e-signed by ALEXIS LOTERO (aclotero@santafenm.gov)
Signature Date: 2025-02-12 - 8:31:18 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2025-02-12 - 8:31:18 PM GMT

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CITY OF SANTA FE

Date: January 21, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: P. Fred Heerbrandt, P.E., Engineer Supervisor FH

Via: Jesse Roach, Acting Public Utilities Director JR

Subject: On Call General Electrical Services Contract

Vendor Name: Pluma, LLC

Munis Vendor Number: 7802

ITEM AND ISSUE:

The Public Utilities Department, Wastewater Management Division respectfully requests your review and approval of a Construction Contract in the total amount of $150,000.00 per year, excluding NMGRT, for On Call General Electrical Services for a term of four (4) years with Pluma, LLC, for a total of $600,000.00 over the contract term, excluding NMGRT.

1.Request for approval of a Budget Amendment Resolution (BAR) in the total amount of $649,125.00 from the Wastewater Enterprise Fund/Fund 500 to fund the contract over the four year term.

CONTRACT NUMBER:

The FY25 Munis contract number is 3250309.

BACKGROUND AND SUMMARY:

The Paseo Real Wastewater Reclamation Facility utilizes many various types of rotating equipment and other electrically driven process equipment that need periodic preventative maintenance, repair, replacement, and/or expansion. This contract will assist in expediting this work by having a contract in place to provide this critical service. A total of three contracts will be awarded from this procurement.

Prior Approvals and Supporting Information:

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25034 was opened on October 15, 2024 and closed on November 14, 2024. Four bids were received and three contracts will be awarded.

Chief Procurement Officer (CPO) / Designee: _____ **Date:** Jan 28, 2025
CPO Comment/Exceptions: _____

FUNDING SOURCE:

Fund Name/Number: Wastewater Enterprise Fund/Fund 500

Munis Org Name/Number: Wastewater Capital Projects - 5000375

Munis Object Name/Number: WIP Construction - 572970

Budget Officer / Designee: Andy Hopkins **Date:** Jan 24, 2025
Budget Officer Comment/Exceptions: _____

ASSOCIATED APPROVALS:

Does this purchase require any of the following associated approvals: ☐ Yes | ☐ No
(ITT, Vehicles/Fleet, Facilities, Asset, Grant Review)

IT Components included? ☐ Yes | ☒ No
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Construction, Facilities, Furniture, Fixtures, Equipment included? ☐ Yes | ◉ No
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Capital Asset* or Project ☐ Yes | ☐ No**
Project Ledger #: _____
(*will this procurement result in a tangible item that costs more than $5,000?)
(**Capital Projects are new and improvement projects that are going to cost $10,000 or more)
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Is this a Grant Funded Purchase? ☐ Yes | ◉ No
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

ATTACHMENTS:

Procurement Document: ITB

Vendor's Bid

Construction Contract

Horizons declination
CPO Service Determination Email
Certificate of Liability Insurance (COI)
Contract
Rate Sheet
BAR

Item #: _____
Munis Contract #: 3250309
ITB #: 25034

CITY OF SANTA FE
CONSTRUCTION CONTRACT
ON CALL GENERAL ELECTRICAL SERVICES

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Pluma, LLC**. hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

1. Scope of Work

A. The Contractor shall perform the following work:

The electrical services will be at the Paseo Real Wastewater Reclamation Facility and other remote sites within the collection system. The work shall include, but not be limited to, installation of new power and lighting circuits; new power services; new electrical devices, equipment, and lighting fixtures; electrical repairs, rewiring, panel and wiring upgrades, inspections of electrical components, repair or replacement of equipment or fixtures, maintaining control systems, lighting systems, and communication systems. The work shall also include the removal and disposal of existing power circuits, lighting fixtures and equipment, and the termination of associated circuits and services. Any related work required to accomplish the requested electrical work is included. Low voltage work could be included and any other related electrical work. The Contractor is required to provide licensed electrical services in a professional manner on every task order given.

The City shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the electrical work required for the project. The Contractor shall be responsible for verification of all existing conditions, measurements, and dimensions for estimating.

Maintenance service calls to the City's Wastewater Reclamation Facility shall be scheduled at the convenience of both parties.

The Contractor shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. The Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits.

The City shall be able to utilize this On-Call Contract as needed and as funding is available.

The award of this Contract is without assurance of quantity or dollar amount of work to be performed.

Wage Rates:
All work covered by this contract shall be in accordance with applicable City and state laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us The City will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The City may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:
All work shall be in adherence to National Electrical Code (NEC), New Mexico Electrical Code (current adopted year), New Mexico Electrical Safety Code (current adopted year), New Mexico Administrative Code (NMAC), and Local Building Regulations including but not limited to the New Mexico Commercial Building Code (current adopted year), New Mexico Residential Building Code (current adopted year), Santa Fe Green Building Code, New Mexico Existing Building Code (current adopted year) for all projects. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the city and state building mechanical, plumbing and electrical codes including Sheet Metal and Air Conditioning Contractors' National Association (SMACNA) and American Society of Heating, Refrigerating and Air-Conditioning Engineer (ASHRAE) standards.

Contractor shall be capable of providing all new or upgrades to the existing electrical service and systems, diagnostic services, perform trouble shooting services for the City, coordinate and supervise electrical services that may include renovations, upgrade, and improvement projects and to provide new electrical services. The Contractor shall prepare quotes for all costs and services needed to perform the work required, in compliance with the national and state electrical codes. The scope of an individual project may include equipment and fixtures whether attached or not to the building. It can include site and utility work. The utility work can include building power systems such as solar panels and geothermal systems. It may also include demolition and abatement projects. It can include security and other low voltage installations with related controls and equipment.

All material shall be new and of the highest quality available for the type of work being performed.

The City reserves the right to purchase materials directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications.

The Contractor may NOT add markups for the materials purchased.

The City reserves the right to procure specialty services directly from Statewide Price Agreements and other sources to provide to the awarded Contractor. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

The City reserves the right to obtain quotes from multiple vendors covered under this Contract and award a project to a contractor based on the quotes.

The City reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the City feel it is in its best interest to provide these extraordinary security services.

The City reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or wellbeing of the facility or any individual.

Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Contract. Any employee of the Contractor found in violation of any law, while on the City's property, will be prosecuted.

Contractor:
No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No contractor shall perform any work on a contract unless the Contractor has a valid Contractor's license issued by the CID to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety is important and enforced by the Contractor on site and will be periodically inspected by the City's qualified safety personnel. The Contractor shall comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them 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 jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the City in connection with the performance of the work covered by this Contract.

Any work involving disconnect or switching of electrical service to a work area shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Contract. Journeymen level personnel shall have the ability and necessary skills to diagnosis problems and to make the appropriate decisions needed to provide these services.

The Contractor shall agree to provide the required labor within 48 hours and respond within 12 hours for emergency situations.

The contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools, and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Replacement systems and related equipment shall meet current minimum "Energy Star" energy conservation standards.

Furnishing of submittal date for any/all new equipment and materials as well as O&M's is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

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

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the City to not interfere with the daily operations of the City or to jeopardize the health, safety or welfare of the employees or general public conducting business with City.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The City's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. The contractor shall be responsible for the provision and maintenance of portable toilets.
B. The Contractor, daily, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, and surplus materials and shall then thoroughly clean the premises and the site to City 's satisfaction.
C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.
D. Storage of materials and construction equipment shall be coordinated with the City.
   All hazardous and non-hazardous constructions debris shall be removed from the work areas and disposed of at an approved waste disposal site.

Task Order:

The Contractor shall be required to provide On-Call Electrical Services for any number of the activities listed under Scope of Work upon the request of the City. When a service is identified, the City shall provide, at a minimum, a detailed scope of work and/or drawings defining the work required. Each project will be individually

described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied, or the Work used/operated and is turned over to City. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) and cost summary to include the work to be performed and the amount of time required for the completion of the project and submit to the City at no cost to City. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task. Failure to respond to the City's requests may be grounds for termination of this Contract.

If any equipment or building system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information the need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size and type of unit recommended along with any applicable efficiency data. The City's and energy standards will be discussed and taken into consideration when proposing replacement units or systems.

Change Orders:
Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated without a doubt there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the City. Preventative measures shall be taken by both the contractor and City prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/CONTRACT.

Permits and Fees:
A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

A. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the City upon completion

of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. The Contractor shall deliver a photocopy of the Building Permit to the Design Professional and the City as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the City's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the City.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues, and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.

D. The Contractor shall prepare a daily report each day the Contractor or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The City may request copies at any time. The reports may include:
    1. report date and who prepared the report;
    2. weather conditions – low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
    3. companies present by name and their number of workers, work location, total man hours that day for each company;
    4. equipment – type, source, units of work done, location of work, hour meter reading;
    5. material brought to site – description, units, quantity, quality, location, time;
    6. visitors to site – name, company, time;
    7. safety concerns – company, contact, noticed by, work activity, safety issue, requirement, outcome: and
    8. quality assurance and control – company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the City a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

    a. Work associated with Punch List(s);
    b. testing, balance, or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;

c. one hard copy and one electronic copy in .pdf format of final approved test, balance, or performance report(s) complete with directory of contents submitted to the City;
d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the City of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the City;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
h. completed Operations Liability insurance policy certificate, if applicable;
i. training of staff on all applicable building systems;
j. all Storm Water Pollution Prevention Permits (SWPPP) have been updated or closed;
k. utility transfer to the City;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Materials and Parts:
Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the City for which the work was provided.

The City requires that all materials shall 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. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the City's approval

2. **<u>Compensation</u>**

A. The total amount payable to the Contractor under this Contract, excluding gross receipts tax and expenses, shall not exceed one hundred fifty thousand dollars ($150,000) per fiscal year, for a total of six hundred thousand dollars ($600,000) excluding gross receipts tax and expenses for the four (4) year term of this Contract. The City shall pay the applicable gross receipts tax. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract.

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

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and

accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Contracts**. This contract allows the City to make payment within 45 days after submission of an undisputed request for payment for contracts funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

3. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **four (4) years from the date of final signature**.

4. Termination

A. Grounds. The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

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 Contract 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 Contract 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 Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 5, "Appropriations," of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, 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 Contract. 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 CONTRACT.*

5. Appropriations

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

6. Status of Contractor

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

7. Construction Contract Performance and Payment Bond

A. When a construction Task Order is approved in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the approval of the Task Order. If the Contractor fails to deliver the required performance and payment bonds, , the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the Task Order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

8. Assignment

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

9. Subcontracting

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

10. Release

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

11. Confidentiality

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

12. Product of Service -- Copyright

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

13. Conflict of Interest; Governmental Conduct Act

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

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

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

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

14. Amendment

A. This Contract 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 Contract 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 Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Change Orders

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, Andrew Hardinge, or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Task Order;
2) Due date of any Deliverable, as outlined in the Task Order;
3) Compensation of any Deliverable, as outlined in the Task Order;
4) Contract compensation, as outlined in Article 2; or
5) Contract termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
   (a) the name of the person requesting the change;
   (b) a summary of the required change;
   (c) the start date for the change;
   (d) the reason and necessity for change;
   (e) the elements to be altered; and
   (f) the impact of the change.

2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

16. Merger

This Contract 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 contract.

All terms and conditions of the **ITB #25034 – General Electrical Services,** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

17. Penalties for violation of law

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

18. Equal Opportunity Compliance

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

19. Applicable Law

The laws of the State of New Mexico shall govern this Contract, 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, section 38-3-2. By execution of this Contract, 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 Contract.

20. Workers Compensation

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

21. Other Insurance

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, 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 Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, 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 Contract are sufficient to cover the obligations of Contractor hereunder.

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

22. Records and Financial Audit

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

23. Indemnification

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

24. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract 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 Contract modifies or waives any provision of the New Mexico Tort Claims Act.

25. Invalid Term or Condition

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

26. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract 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 Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. Notices

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

To the City:
Andrew Hardinge
73 Paseo Real
Santa Fe, NM 87507
aphardinge@santafenm.gov

To the Contractor:
Timothy Everett
6301 4th Street, NW, Suite 1
Albuquerque, NM 87107
tim@plucys.com

28. Authority

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

29. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

30. Final Payment

Final payment, constituting the entire unpaid balance of the Contract sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

31. General and Special Provisions

A. Terms used in this Contract which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Contract shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Contract.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor 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 Contract.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Contract are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Contract.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Contract shall be attached to this Contract at the time of execution and are hereby incorporated by reference as though set forth in full in this Contract to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event, it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

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

CITY OF SANTA FE:

_____
Alan Webber, Mayor

DATE: _____

CONTRACTOR:
Pluma, LLC.

Timothy Everett
_____
Timothy Everett, Vice-President

DATE: Jan 21, 2025

NMBTIN#: 02963775009

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jan 21, 2025 14:13 MST)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
EMILY OSTER, FINANCE DIRECTOR

Bidder Instructions:

Items - Bidders should not add or delete items.

Approx. Qty. - Quantities provides are estimates, only, and do not establish a definite quantity contract. A may vary. Bidders may not change the Approx. Qty.

UOM (Unit of Measure) - Bidders should not change the UOM. Any variation from the UOM identified n

Article and Description - Bidder should not change Article and Description. Any clarification, explanatic

Unit Price - Bidders must provide pricing that conforms with the identified Unit Price.

Comments - Bidders may only provide comments to explain or clarify an item, identify a brand name, or p corresponding ITB document. Changes and additions to the items, including variations in pricing for an ite conform to the requirements in the ITB or on this form will be disregarded, and will not be included in the

Item	Approx. Qty.	UOM	Article and Description	Unit Price
			Wage Rates for Projects Under $60,000.00	
1	1	Hourly	Superintendent – Regular Hourly Rate	$ 80.40
2	1	Hourly	Superintendent – Overtime Hourly Rate	$ 120.60
3	1	Hourly	Journeyman or expirenced worker – Regular Hourly	$ 125.00
4	1	Hourly	Journeyman or experienced worker – Overtime	$ 250.00
5	1	Hourly	Laborer – Regular Hourly Rate	$ 65.00
6	1	Hourly	Laborer – Overtime Hourly Rate	$ 130.00
			Wage Rates for Projects Over $60,000.00	
7	1	Hourly	Superintendent – Regular Hourly Rate	$ 85.00
8	1	Hourly	Superintendent – Overtime Hourly Rate	$ 127.50
9	1	Hourly	Journeyman or expirienced worker – Regular Hourly	$ 125.00
10	1	Hourly	Journeyman or expirienced worker – Overtime	$ 250.00
11	1	Hourly	Laborer – Regular Hourly Rate	$ 70.00
12	1	Hourly	Laborer – Overtime Hourly Rate	$ 140.00
			Other Rates	
13	1	Daily	Sanitary/toilet facilities, rental rates	$ 4.33 / day
14	1	Rate/Mile	Travel Rate from the Contractors facility to the work site, pursuant to the New Mexico Per Diem and Mileage Act.	$ 0.67
15	1	Disc	Discount off parts	% 5

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Utilities Department / Wastewater Management Division	1/21/2025

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	5000375	572970		649,125	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 649,125	$ -

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

Please transfer funds from enterprise cash to WIP Construction for Vendor PLUMA ITB ON CALL Gen Elec Please see memo for details

Please add vendor name when posting BAR

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
Fund 500	(649,125)
TOTAL:	**(649,125)**

P. Fred Heerbrandt, P.E. — 1/21/2025
Prepared By *{print name}* — Date

Jan 23, 2025
Division Director Signature *{optional}* — Date

Jan 23, 2025
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Jan 24, 2025
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

From: DUTTON-LEYDA, TRAVIS K.
To: MACALLISTER, LINDA M.; Purchasing DET
Cc: HEERBRANDT, PAUL F.; CAWTHON, AMY M.
Subject: RE: DETERMINATION REQUEST FOR ITB DETERMINATION (On Call General Electrical Services)
Date: Tuesday, November 26, 2024 5:04:51 PM
Attachments: image003.png

Greetings,

The scope of work as written would be Construction. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- If your request includes anything that needs to be reviewed and preapproved by another City Department/Division, please send the same SOW to the corresponding email address and include their response in your packet/Munis.
  -IT components (anything IT) - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - mtbonifer@santafenm.gov; cmthompson@santafenm.gov; evlujan@santafenm.gov
  - Construction, Facilities, Furniture, Fixtures, Equipment, etc. - jsburnett@santafenm.gov
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - lmstorey@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed.
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the

subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this request. You might be able to use an existing price agreement to save time and money.
    - https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
    - https://naspovaluepoint.org/categories/
    - https://www.omniapartners.com/publicsector/contracts
    - https://www.buyboard.com/home.aspx
    - https://www.h-gac.com/Home
    - https://www.gsaelibrary.gsa.gov/
    - https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
    - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
    - Determination requests to purchasing_det@santafenm.gov
    - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

More Procurement, less drama ~ John Blair

From: MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>
Sent: Tuesday, November 26, 2024 2:22 PM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>; CAWTHON, AMY M. <amcawthon@santafenm.gov>
Subject: DETERMINATION REQUEST FOR ITB DETERMINATION (On Call General Electrical Services)

Hi Travis,

The 1st determination was ITB and now we need a determination for contract template. Please let us know your determination for the following SOW.

The Contractor shall perform the following work:

A. The contractor(s) shall provide professional and licensed electrical service, maintenance, and
installation including but not limited to routine inspections, checking, cleaning, alignment, repair, troubleshooting, and adjustment of existing and future electrical and instrumentation systems until end of contract date.

1.) The location of these services shall include but is not limited to:
   a. Santa Fe Wastewater Treatment Facility and Remote Sites
   b. Canyon Road Water Treatment Facility and Remote Sites
   c. Transmission and Distribution Main Office and Remote Sites

B. The contractor(s) shall provide the services outlined in Scope A to systems including but not
limited to:

1.) Lighting
2.) Motors
3.) Controls
4.) Receptacles
5.) Conduit
6.) Panels

C. Such maintenance service shall include emergency calls. Parts shall be an additional cost to the
city.

D. Contractor shall provide calibration sheets and job reports as it pertains to the work completed.

E. Maintenance service calls to the City's Wastewater Treatment Plant Facility shall be

scheduled
at the convenience of both parties.
F. Contractor shall furnish the City with a written report from contract after each service call.

Linda MacAllister

Contract Specialist

City of Santa Fe Waste Water/Purchasing

Cell: 505-577-6731

Client#: 1959046 PLUMALLC

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 11/18/2024

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

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

PRODUCER
USI Southwest Inc. NM - CL
4100 Osuna Road NE Suite 2-203
Albuquerque, NM 87109
505 262-2621

CONTACT NAME: Sue Vance / David Olague-Love
PHONE (A/C, No, Ext): 505 262-2621 **FAX (A/C, No):** 855-512-3881
E-MAIL ADDRESS: david.olague-love@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Selective Insurance Company of America	12572
INSURER B : Builders Trust of New Mexico	99999
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Pluma, LLC
6301 4th St. NW, Ste 1
Los Ranchos, NM 87107

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	S256348100	03/01/2024	03/01/2025	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
							MED EXP (Any one person)	$15,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$3,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$3,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY	X	X	S256348100	03/01/2024	03/01/2025	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			S256348100	03/01/2024	03/01/2025	EACH OCCURRENCE	$4,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$4,000,000
	DED RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N		X	WC10000063432024A	03/01/2024	03/01/2025	X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y	N / A					E.L. EACH ACCIDENT	$2,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$2,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$2,000,000

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

The General Liability and Automobile policies include an automatic Additional Insured endorsement that provides Additional insured status to the Certificate Holder, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed by or on behalf of the named insured.
The General Liability, Automobile, and Workers Compensation policies provide a Blanket Waiver of (See Attached Descriptions)

CERTIFICATE HOLDER

The City of Santa Fe
73 Paseo Real
Santa Fe, NM 87507

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

Subrogation in favor of the same, when required by written contract.
The General Liability policy contains a special endorsement with "Primary and Noncontributory" wording, when required by written contract.

For Informational Purposes Only.

Signature: P. Fred Heerbrandt, P.E.
P. Fred Heerbrandt, P.E. (Jan 23, 2025 07:57 MST)

Email: pfheerbrandt@santafenm.gov

CITY OF SANTA FE

Date: January 21, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From: P. Fred Heerbrandt, P.E., Engineer Supervisor FH

Via: Jesse Roach, Acting Public Utilities Director JR

Subject: On Call General Electrical Services Contract

Vendor Name: Great Western Electrical, Inc.

Munis Vendor Number: 6827

ITEM AND ISSUE:

The Public Utilities Department, Wastewater Management Division respectfully requests your review and approval of a Construction Contract in the total amount of $150,000.00 per year, excluding NMGRT, for On Call General Electrical Services for a term of four (4) years with Great Western Electrical, Inc, for a total of $600,000.00 over the contract term, excluding NMGRT.

1.Request for approval of a Budget Amendment Resolution (BAR) in the total amount of $649,125.00 from the Wastewater Enterprise Fund/Fund 500 to fund the contract over the four year term.

CONTRACT NUMBER:

The FY25 Munis contract number is 3250310.

BACKGROUND AND SUMMARY:

The Paseo Real Wastewater Reclamation Facility utilizes many various types of rotating equipment and other electrically driven process equipment that need periodic preventative maintenance, repair, replacement, and/or expansion. This contract will assist in expediting this work by having a contract in place to provide this critical service. A total of three contracts will be awarded from this procurement.

Prior Approvals and Supporting Information:

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25034 was opened on October 15, 2024 and closed on November 14, 2024. Four bids were received and three contracts will be awarded.

Chief Procurement Officer (CPO) / Designee: _____ **Date:** Jan 27, 2025
CPO Comment/Exceptions: _____

FUNDING SOURCE:

Fund Name/Number: Wastewater Enterprise Fund/Fund 500

Munis Org Name/Number: Wastewater Capital Projects - 5000375

Munis Object Name/Number: WIP Construction - 572970

Budget Officer / Designee: Andy Hopkins **Date:** Jan 27, 2025
Budget Officer Comment/Exceptions: _____

ASSOCIATED APPROVALS:

Does this purchase require any of the following associated approvals: ☐ Yes | ☐ No
(ITT, Vehicles/Fleet, Facilities, Asset, Grant Review)

IT Components included? ☐ Yes | ☒ No
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Construction, Facilities, Furniture, Fixtures, Equipment included? ☐ Yes | ◉ No
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Capital Asset* or Project ☐ Yes | ☐ No**
Project Ledger #: _____
(*will this procurement result in a tangible item that costs more than $5,000?)
(**Capital Projects are new and improvement projects that are going to cost $10,000 or more)
Approval: _____ **Title:** _____ **Date**: _____
Comment/Exceptions: _____

Is this a Grant Funded Purchase? ☐ Yes | ◉ No
Approval: _____ **Title:** _____ **Date:** _____
Comment/Exceptions: _____

ATTACHMENTS:

Procurement Document: ITB

Vendor's Bid

Construction Contract

Horizons declination
CPO Service Determination Email
Certificate of Liability Insurance (COI)
Contract
Memo
Rate Sheet
BAR

Item #: _____
Munis Contract #: 3250310
ITB #: 25034

CITY OF SANTA FE

CONSTRUCTION CONTRACT
On-Call General Electrical Services

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Great Western Electrical, Inc.**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

1. Scope of Work

A. The Contractor shall perform the following work:

The electrical services will be at the Paseo Real Wastewater Reclamation Facility and other remote sites within the collection system. The work shall include, but not be limited to, installation of new power and lighting circuits; new power services; new electrical devices, equipment, and lighting fixtures; electrical repairs, rewiring, panel and wiring upgrades, inspections of electrical components, repair or replacement of equipment or fixtures, maintaining control systems, lighting systems, and communication systems. The work shall also include the removal and disposal of existing power circuits, lighting fixtures and equipment, and the termination of associated circuits and services. Any related work required to accomplish the requested electrical work is included. Low voltage work could be included and any other related electrical work. The Contractor is required to provide licensed electrical services in a professional manner on every task order given.

The City shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the electrical work required for the project. The Contractor shall be responsible for verification of all existing conditions, measurements, and dimensions for estimating.

Maintenance service calls to the City's Wastewater Reclamation Facility shall be scheduled at the convenience of both parties.

The Contractor shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. The Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits.

The City shall be able to utilize this On-Call Contract as needed and as funding is available.

The award of this Contract is without assurance of quantity or dollar amount of work to be performed.

Wage Rates:

All work covered by this contract shall be in accordance with applicable City and state laws and is subject to the

minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars ($60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: http://www.dws.state.nm.us The City will request a wage rate determination from the DWS for each project that is $60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars ($60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The City may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:
All work shall be in adherence to National Electrical Code (NEC), New Mexico Electrical Code (current adopted year), New Mexico Electrical Safety Code (current adopted year), New Mexico Administrative Code (NMAC), and Local Building Regulations including but not limited to the New Mexico Commercial Building Code (current adopted year), New Mexico Residential Building Code (current adopted year), Santa Fe Green Building Code, New Mexico Existing Building Code (current adopted year) for all projects. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the city and state building mechanical, plumbing and electrical codes including Sheet Metal and Air Conditioning Contractors' National Association (SMACNA), and American Society of Heating, Refrigerating and Air-Conditioning Engineer (ASHRAE) standards.

Contractor shall be capable of providing all new or upgrades to the existing electrical service and systems, diagnostic services, perform trouble shooting services for the City, coordinate and supervise electrical services that may include renovations, upgrade, and improvement projects and to provide new electrical services. The Contractor shall prepare quotes for all costs and services needed to perform the work required, in compliance with the national and state electrical codes. The scope of an individual project may include equipment and fixtures whether attached or not to the building. It can include site and utility work. The utility work can include building power systems such as solar panels and geothermal systems. It may also include demolition and abatement projects. It can include security and other low voltage installations with related controls and equipment.

All material shall be new and of the highest quality available for the type of work being performed.

The City reserves the right to purchase materials directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications.

The Contractor may NOT add markups for the materials purchased.

The City reserves the right to procure specialty services directly from Statewide Price Agreements and other sources to provide to the awarded Contractor. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

The City reserves the right to obtain quotes from multiple vendors covered under this Contract and award a project to a contractor based on the quotes.

The City reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the City feel it is in its best interest to provide these extraordinary security services.

The City reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or wellbeing of the facility or any individual.

Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Contract. Any employee of the Contractor found in violation of any law, while on the City's property, will be prosecuted.

Contractor:
No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No contractor shall perform any work on a contract unless the Contractor has a valid Contractor's license issued by the CID to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety is important and enforced by the Contractor on site and will be periodically inspected by the City's qualified safety personnel. The Contractor shall comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them 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 jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the City in connection with the performance of the work covered by this Contract.

Any work involving disconnect or switching of electrical service to a work area shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Contract. Journeymen level personnel shall have the ability and necessary skills to diagnosis problems and to make the appropriate decisions needed to provide these services.

The Contractor shall agree to provide the required labor within 48 hours and respond within 12 hours for emergency situations.

The contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools, and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a

work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Replacement systems and related equipment shall meet current minimum "Energy Star" energy conservation standards.

Furnishing of submittal date for any/all new equipment and materials as well as O&M's is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

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

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the City to not interfere with the daily operations of the City or to jeopardize the health, safety or welfare of the employees or general public conducting business with City.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The City's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. The contractor shall be responsible for the provision and maintenance of portable toilets.

B. The Contractor, daily, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, and surplus materials and shall then thoroughly clean the premises and the site to City 's satisfaction.

C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

D. Storage of materials and construction equipment shall be coordinated with the City.

All hazardous and non-hazardous constructions debris shall be removed from the work areas and disposed of at an approved waste disposal site.

Task Order:

The Contractor shall be required to provide On-Call Electrical Services for any number of the activities listed under Scope of Work upon the request of the City. When a service is identified, the City shall provide, at a minimum, a detailed scope of work and/or drawings defining the work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial

completion. The date of Substantial Completion is the date when the space can be occupied, or the Work used/operated and is turned over to City. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) and cost summary to include the work to be performed and the amount of time required for the completion of the project and submit to the City at no cost to City. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task. Failure to respond to the City's requests may be grounds for termination of this Contract.

If any equipment or building system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information the need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size and type of unit recommended along with any applicable efficiency data. The City's and energy standards will be discussed and taken into consideration when proposing replacement units or systems.

Change Orders:
Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated without a doubt there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the City. Preventative measures shall be taken by both the contractor and City prior to issuing the Notice to Proceed. Such measures may include soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

Other Construction Related Terms and Conditions:

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/CONTRACT.

Permits and Fees:
A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

A. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the City upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. The Contractor shall deliver a photocopy of the Building Permit to the Design Professional and the

City as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the City's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the City.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues, and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.

D. The Contractor shall prepare a daily report each day the Contractor or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The City may request copies at any time. The reports may include:

1. report date and who prepared the report;
2. weather conditions – low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. companies present by name and their number of workers, work location, total man hours that day for each company;
4. equipment – type, source, units of work done, location of work, hour meter reading;
5. material brought to site – description, units, quantity, quality, location, time;
6. visitors to site – name, company, time;
7. safety concerns – company, contact, noticed by, work activity, safety issue, requirement, outcome: and
8. quality assurance and control – company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the City a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

a. Work associated with Punch List(s);
b. testing, balance, or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
c. one hard copy and one electronic copy in .pdf format of final approved test, balance, or

performance report(s) complete with directory of contents submitted to the City;

d. as-Built drawings delivered in AutoCAD or electronic format;
e. written certification signed by the City of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the City;
f. delivery of all warranties required by the Work;
g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
h. completed Operations Liability insurance policy certificate, if applicable;
i. training of staff on all applicable building systems;
j. all Storm Water Pollution Prevention Permits (SWPPP) have been updated or closed;
k. utility transfer to the City;
l. Operations and Maintenance Manuals;
m. a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Materials and Parts:
Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the City for which the work was provided.

The City requires that all materials shall 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. Recycled materials specifically prepared for reuse to meet "LEED" certification may be permitted with the City's approval

2. **<u>Compensation</u>**

A. The total amount payable to the Contractor under this Contract, excluding gross receipts tax and expenses, shall not exceed one hundred fifty thousand dollars ($150,000) per fiscal year, for a total of six hundred thousand dollars ($600,000) excluding gross receipts tax and expenses for the four (4) year term of this Contract. The City shall pay the applicable gross receipts tax. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract.

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

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the

Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Contracts**. This contract allows the City to make payment within 45 days after submission of an undisputed request for payment for contracts funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

3. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **four (4) years from the date of final signature**.

4. Termination

A. Grounds. The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

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 Contract 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 Contract 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 Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 5, "Appropriations," of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, 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 Contract. 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 CONTRACT.*

5. Appropriations

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

6. Status of Contractor

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

7. Construction Contract Performance and Payment Bond

A. When a construction task order is approved in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the task order. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the task order; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the task order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

8. Assignment

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

9. Subcontracting

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

10. Release

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

11. Confidentiality

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

12. Product of Service -- Copyright

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

13. Conflict of Interest; Governmental Conduct Act

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

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

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

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

14. Amendment

A. This Contract 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 Contract 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 Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Change Orders

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, Andrew Hardinge, or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Task Order;
2) Due date of any Deliverable, as outlined in the Task Order;
3) Compensation of any Deliverable, as outlined in the Task Order;
4) Contract compensation, as outlined in Article 2; or
5) Contract termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
   (a) the name of the person requesting the change;
   (b) a summary of the required change;
   (c) the start date for the change;
   (d) the reason and necessity for change;
   (e) the elements to be altered; and
   (f) the impact of the change.

2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

16. Merger

This Contract 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 contract.

All terms and conditions of the **ITB #25034 – General Electrical Services,** and the Contractor's response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

17. Penalties for violation of law

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

18. Equal Opportunity Compliance

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

19. Applicable Law

The laws of the State of New Mexico shall govern this Contract, 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, section 38-3-2. By execution of this Contract, 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 Contract.

20. Workers Compensation

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

21. Other Insurance

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, 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 Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, 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 Contract are sufficient to cover the obligations of Contractor hereunder.

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

22. Records and Financial Audit

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

23. Indemnification

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

24. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract 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 Contract modifies or waives any provision of the New Mexico Tort Claims Act.

25. Invalid Term or Condition

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

26. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract 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 Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

27. Notices

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

To the City:
Andrew Hardinge
73 Paseo Real
Santa Fe, NM 87507
aphardinge@santafenm.gov

To the Contractor:
Scott Burson
3310 Girard Blvd. NE
Albuquerque, NM 87107
sburson@nmgwe.com

28. Authority

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

29. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

30. Final Payment

Final payment, constituting the entire unpaid balance of the Contract sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

31. General and Special Provisions

A. Terms used in this Contract which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Contract shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Contract.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor 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 Contract.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Contract are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Contract.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Contract shall be attached to this Contract at the time of execution and are hereby incorporated by reference as though set forth in full in this Contract to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event, it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or

trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

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

CITY OF SANTA FE:

_____
Alan Webber, Mayor

DATE: _____

CONTRACTOR:
Great Western Electrical, Inc

Scott Burson
Scott Burson (Jan 16, 2025 13:57 MST)
Scott Burson, President

DATE: Jan 16, 2025

NMBTIN#: 03-139624-000

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jan 16, 2025 13:58 MST)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
EMILY OSTER, FINANCE DIRECTOR

Bidder Instructions:

Items - Bidders should not add or delete items.

Approx. Qty. - Quantities provides are estimates, only, and do not establish a definite quantity contract. Actual quantities purchased under a resulting agreement may vary. Bidders may not change the Approx. Qty.

UOM (Unit of Measure) - Bidders should not change the UOM. Any variation from the UOM identified may be provided in the Comments.

Article and Description - Bidder should not change Article and Description. Any clarification, explanation, brand name identification, etc. must be provided in the

Unit Price - Bidders must provide pricing that conforms with the identified Unit Price.

Comments - Bidders may only provide comments to explain or clarify an item, identify a brand name, or provide information as specifically stated in the corresponding ITB document. Changes and additions to the items, including variations in pricing for an item, are not permitted. Any comments that do not conform to the requirements in the ITB or on this form will be disregarded, and will not be included in the resulting award, if bidder is awarded.

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
			Wage Rates for Projects Under $60,000.00		
1	1	Hourly	Superintendent – Regular Hourly Rate	$105.00	
2	1	Hourly	Superintendent – Overtime Hourly Rate	$157.50	
3	1	Hourly	Journeyman or expirenced worker – Regular Hourly	$80.00	
4	1	Hourly	Journeyman or experienced worker – Overtime	$120.00	
5	1	Hourly	Laborer – Regular Hourly Rate	$45.00	
6	1	Hourly	Laborer – Overtime Hourly Rate	$67.50	
			Wage Rates for Projects Over $60,000.00		
7	1	Hourly	Superintendent – Regular Hourly Rate	$110.00	
8	1	Hourly	Superintendent – Overtime Hourly Rate	$160.00	
9	1	Hourly	Journeyman or expirienced worker – Regular Hourly	$85.00	
10	1	Hourly	Journeyman or expirienced worker – Overtime	$127.50	
11	1	Hourly	Laborer – Regular Hourly Rate	$50.00	
12	1	Hourly	Laborer – Overtime Hourly Rate	$75.00	
			Other Rates		
13	1	Daily	Sanitary/toilet facilities, rental rates	$10.00	
14	1	Rate/Mile	Travel Rate from the Contractors facility to the work site, pursuant to the New Mexico Per Diem and Mileage Act.	$0.67	
15	1	Disc	Discount off parts	10%	Off retail

Outlook

RE: DETERMINATION REQUEST FOR ITB DETERMINATION (On Call General Electrical Services)

From DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Date Tue 11/26/2024 5:04 PM
To MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>; Purchasing DET <purchasing_det@santafenm.gov>
Cc HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>; CAWTHON, AMY M. <amcawthon@santafenm.gov>

Greetings,

The scope of work as written would be Construction. This determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, the Procurement Manual, and state statutes.

Please note:

- Save this email as a PDF and upload it into the corresponding Munis records.
- If your request includes anything that needs to be reviewed and preapproved by another City Department/Division, please send the same SOW to the corresponding email address and include their response in your packet/Munis.
  -IT components (anything IT) - ereview@santafenm.gov
  -Vehicles – dmjaramillo@santafenm.gov
  -Grants - mtbonifer@santafenm.gov; cmthompson@santafenm.gov; evlujan@santafenm.gov
  - Construction, Facilities, Furniture, Fixtures, Equipment, etc. - jsburnett@santafenm.gov_
  -Emergency Related Purchases - bgwilliams@santafenm.gov
  -Asset over $5k - lmstorey@santafenm.gov
- Ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed. _
- > $20k per year, when processing this procurement, please ensure the procurement number issued by Munis and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is =/> $60k, per NMSA 1978, Section 13-1-102, the procurement method must be ITB (if you choose not to use a cooperative or an existing contract). If you feel you need to process an RFP, you must get an Authorization and Plan approved before you process.
- < $20k per year, one quote is acceptable.
- From $20k to $60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req. Must use the Munis Bid Module after 12/21/2023.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent contract. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.
- Please review the pages linked below to determine whether any of the existing contracts/price agreements or cooperative agreements are applicable to this

request. You might be able to use an existing price agreement to save time and money.

- https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/ (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
- https://naspovaluepoint.org/categories/
- https://www.omniapartners.com/publicsector/contracts
- https://www.buyboard.com/home.aspx
- https://www.h-gac.com/Home
- https://www.gsaelibrary.gsa.gov/
- https://www.sourcewell-mn.gov/contract-search

- Submit or send your request to the appropriate MS Teams channel or email address:
  - RFPs requests to https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - ITBs requests to https://teams.microsoft.com/l/channel/19%3a48e1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f
  - Determination requests to purchasing_det@santafenm.gov
  - And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
Chief Procurement Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov

https://santafenm.gov/finance-2/purchasing-1

Vendor Registration and Current Procurement Opportunities:
https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx

Internal Link: https://intranet.santafenm.gov/finance_1

CITY OF SANTA FE
FINANCE

More Procurement, less drama ~ John Blair

From: MACALLISTER, LINDA M. <lmmacallister@santafenm.gov>
Sent: Tuesday, November 26, 2024 2:22 PM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: HEERBRANDT, PAUL F. <pfheerbrandt@santafenm.gov>; CAWTHON, AMY M. <amcawthon@santafenm.gov>
Subject: DETERMINATION REQUEST FOR ITB DETERMINATION (On Call General Electrical Services)

Hi Travis,

The 1st determination was ITB and now we need a determination for contract template. Please let us know your determination for the following SOW.

The Contractor shall perform the following work:

A. The contractor(s) shall provide professional and licensed electrical service, maintenance, and
installation including but not limited to routine inspections, checking, cleaning, alignment,
repair, troubleshooting, and adjustment of existing and future electrical and instrumentation
systems until end of contract date.

1.) The location of these services shall include but is not limited to:
   a. Santa Fe Wastewater Treatment Facility and Remote Sites
   b. Canyon Road Water Treatment Facility and Remote Sites
   c. Transmission and Distribution Main Office and Remote Sites

B. The contractor(s) shall provide the services outlined in Scope A to systems including but not
limited to:

1.) Lighting
2.) Motors
3.) Controls
4.) Receptacles
5.) Conduit
6.) Panels

C. Such maintenance service shall include emergency calls. Parts shall be an additional cost to the
city.

D. Contractor shall provide calibration sheets and job reports as it pertains to the work completed.
E. Maintenance service calls to the City's Wastewater Treatment Plant Facility shall be scheduled
at the convenience of both parties.
F. Contractor shall furnish the City with a written report from contract after each service call.

Linda MacAllister
Contract Specialist
City of Santa Fe Waste Water/Purchasing
Cell: 505-577-6731

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Utilities Department / Wastewater Management Division	1/21/2024

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
On-Call General Electrical Services	5000375	572970		649,125	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 649,125	$ -

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

Moines are transfered from cash for GREAT WESTERN ON-CALL GENERAL ELECTRICAL SERVICES please see memo for detail

Please add vendor name GREAT WESTERN on BAR posting

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
Fund 500	(649,125)
TOTAL:	**(649,125)**

P. Fred Heerbrandt, P.E. — 11/19/2024
Prepared By *{print name}* — Date

Jan 22, 2025
Division Director Signature *{optional}* — Date

Jan 22, 2025
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Jan 27, 2025
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/30/2024

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

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

PRODUCER	CONTACT NAME: Katherine Leslie	
Daniels Insurance, Inc. 320 Gold Avenue SW, Ste 700 Albuquerque NM 87102	PHONE (A/C, No, Ext): (505) 766-9676	FAX (A/C, No): (505) 766-9679
	E-MAIL ADDRESS: amonrreal@danielsinsuranceinc.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : New Mexico Security Insurance	15349
INSURED Great Western Electrical, Inc. 3310 Girard Blvd NE Albuquerque NM 87107 (505) 881-6525	INSURER B : Donegal Mutual Insurance Compa	13692
	INSURER C : Atlantic States Insurance Comp	22586
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES AM **CERTIFICATE NUMBER:** Cert ID 38891 (11) **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC X OTHER: per location			CPT9257534	01/01/2025	01/01/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 500,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
C	AUTOMOBILE LIABILITY X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			1000111722	01/01/2025	01/01/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $			CXL9257534	01/01/2025	01/01/2026	EACH OCCURRENCE AGGREGATE Pers Adver Inju	$ 5,000,000 $ 5,000,000 $ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [ ] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0111256.101	01/01/2025	01/01/2026	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A	Leased/Rented Equipment			CPT9257534	01/01/2025	01/01/2026		$ 250,000 $

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

General and Auto liability policies contain a Blanket Additional Insured provision that establishes the scope of Additional Insured coverage granted to the Certificate Holder. General Liability policy will pay for a covered loss on a primary basis and the Company will not seek contribution from the Certificate Holder for such loss until the Company's primary limits of liability have been exhausted when required by written contract. Where permitted by state law, and per a Blanket Waiver of Subrogation Endorsement, the Insurer waives its right to subrogate against the Certificate Holder by reason of payments made under the General and Auto liability and Workers' Compensation policies but only under the circumstances stated in the policies. Umbrella Liability follows form.

CERTIFICATE HOLDER

City of Santa Fe

200 Lincoln Ave
PO Box 909
Santa Fe NM 87504-0909

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Katherine R. Leslie

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Signature: P. Fred Heerbrandt, P.E.
P. Fred Heerbrandt, P.E. (Jan 22, 2025 12:28 MST)

Email: pfheerbrandt@santafenm.gov

City of Santa Fe, New Mexico

Memorandum

DATE: January 27, 2025

TO: Public Works and Utilities Committee
Finance Committee
Governing Body

VIA: Jesse Roach, Interim Public Utilities Director JR
Nancy Jimenez, Utility Billing Division Director NLJ
Deborah Trujillo, Environmental Services Interim Division Director DT
Michael Dozier, Wastewater Division Director MD

FROM: Clarence Romero, Finance Department, Treasury Officer CR
Virginia Wolff, Public Utilities Manager GW

RE: Wells Fargo Credit Card fees

ITEM AND ISSUE:

Treasury is requesting Public Utilities make available $120,000.00 to pay credit card fees to Wells Fargo.

BACKGROUND AND SUMMARY:

Wells Fargo credit card fees are paid by the Treasury Officer out of Public Utilities account 5110354.561750. This account does not have enough funds to pay Wells Fargo credit card fees through the remainder of the Fiscal Year.

FUNDING SOURCE:

Public Utilities Enterprise Cash fund.

REQUESTED ACTION:

Request approval of a BAR to increase budget in Org/Obj 5110354.561750.

ATTACHMENTS:

BAR

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

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

DEPARTMENT / DIVISION NAME	DATE
PUBLIC UTILITIES/UTILITIES	1/24/205

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Public Utilities Cashier Utility Bank Charges	5110354	561750		120,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 120,000	$ -

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

Budget increase needed for Wells Fargo Credit Card Fees

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
505	60,000
510	30,000
500	30,000
TOTAL:	**120,000**

Virginia Wolff — 1/30/2025
Prepared By *{print name}* — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Feb 13, 2025
Budget Officer — Date

Division Director Signature *{optional}* — Date

Jan 31, 2025
Department Director Signature — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Signature: Nancy L. Jimenez
Nancy L. Jimenez (Feb 3, 2025 10:36 MST)

Email: nljimenez@santafenm.gov

Signature:
DEBORA TRUJILLO (Feb 3, 2025 11:15 MST)

Email: dctrujillo@santafenm.gov

Signature:

Email: mldozier@santafenm.gov

Signature: CLARENCE ROMERO

Email: clromero@santafenm.gov

Signature: Gina Wolff
Gina Wolff (Feb 13, 2025 12:19 MST)

Email: vawolff@santafenm.gov

CITY OF SANTA FE

Purchasing Memo

Date: February 3, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

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

Via: Jesse D. Roach, Interim Public Utilities Department Director. Jesse Roach

Subject: Request approval of Amendment No. 3 to Price Agreement Item # 24-0653 with A.A.C. Construction LLC (AAC) to Correct Contract Compensation Language**.** (Bill Huey, Engineer, bchuey@santafenm.gov)

Vendor Name: A.A.C. Construction LLC

Contract Number: 3202927

Munis Vendor Number: 7958

ITEM AND ISSUE:

The Public Utilities Department, Water Division requests approval of Amendment No. 3 to correct compensation language in the contract for Amendment 2. All memo language will stay the same as it was in Amendment 2.

On November 13, 2024 the Governing Body approved the Public Utilities Department, Water Division request for approval of Amendment No. 2 to Price Agreement Item # 23-0183 (Munis contract number 3202927) with A.A.C. Construction LLC (AAC) to Increase Maximum Compensation by $1,581,875.00 for a New Total Contract Amount of $5,041,875.30 including NMGRT with No Corresponding Change to the Term of the Agreement. However, the amount in the contract was inaccurate.

Paragraph 1. Compensation, of Amendment 2 stating the total amount payable to the Contractor shall not exceed $5,438,228.27 has been changed to the correct amount of $5,041,875.30.

CONTRACT NUMBER:

The Munis contract number is 3202927

BACKGROUND AND SUMMARY:

In July 2021, City Council awarded bid number '21/43/B for the Priority Line Replacement Price Agreement, CIP # 3058 to both A.A.C. Construction LLC (AAC) and Sub Surface Contracting Inc. for four (4) Fiscal Years, FY 2021-22 until FY 2024-25 at the initial funding amount of $3,500,000 inclusive of NMGRT. Future funding was dependent upon the availability of CIP funds. The Priority Line Replacement Price Agreement is an on-call requirements contract, with the Water Division issuing work orders as needed for work such as water line repairs and replacements. The contract is funded from the CIP budget for Transmission and Distribution to work on their infrastructure.

PRIOR APPROVALS AND SUPPORTING INFORMATION:

FUNDING SOURCE:

Fund Name/Number: Water Enterprise Fund/Fund 500

Munis Org Name/Number: Water CIP/5050395

Munis Object Name/Number: WIP Construction/572970

Budget Officer / Designee: Andy Hopkins ajhopkins@santafenm.gov ajhopkins@santafenm.gov **Date:** Feb 12, 2025

Budget Officer Comment/Exceptions: _____

PROCUREMENT METHOD:

The procurement method used was NMSA 1978, Section 13-1-102, ITB

Priority Line Replacement Price Agreement, CIP # 3058 approved by City Council on 7/28/2021.

Chief Procurement Officer (CPO) / Designee: Travis Dutton-Leyda **Date:** Feb 13, 2025

CPO Comment/Exceptions: _____

ASSOCIATED APPROVALS:

IT Components included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Vehicles included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Construction to City Facilities, Furniture, and/or Fixtures included? ☐ Yes | ☒ No

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this an externally funded purchase? ☐ Yes | ☒ No

If yes, what is the issuing agency: _____

Approval: _____ **Title:** _____ **Date:** _____

Comment/Exceptions: _____

Is this a Capital Asset or Project? ☒ **Yes** | ☐ **No**

Project Ledger Number: WTR2550524

Approval: Josie Bolden **Title:** Controller **Date:** Feb 12, 2025

Comment/Exceptions: Contract is used to repair main water line breaks and replace smaller sections of main water lines.

Department Contract Administrator Contact Info:

Gina Wolff, vawolff@santafenm.gov

ATTACHMENTS:
Amendment No. 3
Budget Amendment Request (BAR)
Original Contract Packet 3202927 with Amendments 1 & 2

Item#_____
Munis Contract#3202927
Original Contract Item#21-0483
CIP #3058

CITY OF SANTA FE
AMENDMENT No. 3 TO
The Priority Line Replacement Price Agreement
ITEM#21-0483

This AMENDMENT No. 3 (the "Amendment") amends the CITY OF SANTA FE Agreement, dated September 10, 2021 (the "Agreement"), between the City of Santa Fe and A.A.C. Construction, LLC. 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 Contract, Contractor has agreed to provide the Priority Line Replacement for the City of Santa Fe.

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

1. COMPENSATION.

Article 2, paragraph A of the Contract is replaced entirely with the following language:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at total amount up to five million, forty-one thousand, eight hundred and seventy-five dollars ($5,041,875.00). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling three hundred eighty-six thousand five hundred fifty-one dollars and sixty-five cents ($386,551.65) shall be paid by the City to the Contractor as described in Exhibit A attached hereto. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed five million forty-one thousand eight hundred**

seventy-five dollars ($5,041,875.00). This amount is a maximum and not a guarantee that the work assigned to be performed by the Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

2. CONTRACT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 to the Contract as of the dates set forth below.

CITY OF SANTA FE:

_____
Alan Webber, Mayor

DATE:_____

CONTRACTOR:
A.A.C. Construction, LLC

Andrew Sisneros (Jan 31, 2025 06:08 MST)
Andrew Sisneros

DATE: Jan 31, 2025

TITLE: Managing Member

NMBTIN: _____
CRS# 03-157349-00-5

ATTEST:

_____
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jan 31, 2025 09:41 MST)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
FINANCE DIRECTOR

City of Santa Fe, New Mexico

memo

Date: October 29, 2024

To: Public Works and Utilities Committee / Finance Committee / City Council

Via: John Dupuis, Public Utilities Department Director
Jesse D. Roach, Water Division Director

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

Subject: Request approval of Amendment No. 2 to Price Agreement Item # 23-0183 with A.A.C. Construction LLC (AAC) to Increase Maximum Compensation by $1,581,875.00 for a New Total Contract Amount of $5,041,875.30 including NMGRT (Bill Huey, Engineer, bchuey@santafenm.gov)

Vendor Name: A.A.C. Construction LLC

Vendor Number: 7958

Contract Number: 3202927

ITEM AND ISSUE:

The Public Utilities Department, Water Division requests approval of Amendment No. 2 to Price Agreement Item # 23-0183 with A.A.C. Construction LLC (AAC) to Increase Maximum Compensation by $1,581,875.00 for a New Total Contract Amount of $5,041,875.30 including NMGRT with No Corresponding Change to the Term of the Agreement. (Bill Huey, Engineer, bchuey@santafenm.gov)

ACTION REQUESTED:

Approval of Amendment No. 2 to Price Agreement # 23-0183

BACKGROUND AND SUMMARY:

In July 2021, City Council awarded bid number '21/43/B for the Priority Line Replacement Price Agreement, CIP # 3058 to both A.A.C. Construction LLC (AAC) and Sub Surface Contracting Inc. for four (4) Fiscal Years, FY 2021-22 until FY2024-25 at the initial funding amount of $3,500,000 inclusive of NMGRT. Future funding was dependent upon the availability of CIP funds.

The Priority Line Replacement Price Agreement is an on-call requirements contract, with the Water Division issuing work orders as needed for work such as water line replacements. The contract is funded from CIP for Transmission and Distribution to work on their infrastructure.

The Water Division historically planned to upgrade pressure reducing valve vaults but has not done so in the last few years. We request adding a total of $1,000,000 to this contract, $500,000.00 for each contractor to begin this upgrade program again.

The Water Division is requesting approval of $1,581,875.00 (including NMGRT) additional funding to allow for this Fiscal Year's work to be conducted.

PROCUREMENT METHOD:

ITB/PA No. '21/43/B FY 21/22 Priority Line Replacement Price Agreement, CIP # 3058 approved by City Council on 7/28/2021.

Chief Procurement Officer Approval: _____ **Date:** Nov 1, 2024
Comment/Exceptions: _____

Supporting Information:

CONTRACT NUMBER:
The FY25 Munis contract number for AAC is 3202927
The FY25 Project ledger number for Priority Line Replacement is WTR2550521

$$$$$ SOURCE/REVENUE: ☒Expense ☐Revenue

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

If the project is grant funded? List grant award number*:* _____

Grant Manager / Accounting Officer Approval: _____ **Date:** _____
Comment/Exceptions: _____

Project Ledger #: _____

Budget Officer Approval: Andy Hopkins **Date:** Oct 31, 2024
Comment/Exceptions: _____

CAPITAL ASSET (will this procurement result in a tangible item that costs more than $5,000?):

☒Yes | ☐ No

 # (if known): _____

Repair or Replacement of Existing Equipment:

☒Yes | ☐ No
If yes -> ☒Repair | ☒ Replacement

Please explain: Contract is used to repair main water line breaks and replace smaller sections of main water lines.

Capital Project:
(New and improvement projects that are going to cost $10,000 or more)
☒ Yes | ☐ No

Project Ledger #: _____

Anticipated length of project: To be determined _____

Asset Manager Approval: _____ **Date:** _____
Comment/Exceptions: _____

Department Approvals:
IT Components: ☐ **Yes |** ☒ **No**
Vehicles: ☐ **Yes |** ☒ **No**
Facilities, Furniture, Fixtures, Equipment: ☐ **Yes |** ☒ **No**

Approval: _____ **Title:** _____ **Date**: _____
Approval: _____ **Title:** _____ **Date**: _____
Comment & Exceptions: _____

Department Contract Administrator Contact Info:

Gina Wolff
vawolff@santafenm.gov

ATTACHMENTS:
Contract 3202927 Amendment No. 2
Budget Amendment Request (BAR)

cc:

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Utilities Department / Water Division	10/28/2024

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Water Cap Proj, WIP Construction	5050395	572970	WTR2550521	1,581,875	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 1,581,875	$ -

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

Please see attached Memo.

Contract (3202927) with A.A.C. Construction LLC for priority line repairs Amendment No. 2

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
505	(1,581,875)
TOTAL:	**(1,581,875)**

Jonna Leigh Stack for Bill Huey — 10/29/2024
Prepared By *{print name}* — Date

Oct 31, 2024
Division Director Signature *{optional}* — Date

John Dupuis (Oct 31, 2024 15:27 MDT) Oct 31, 2024
Department Director Signature, John Dupuis — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Oct 31, 2024
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Client#: 2003588 AACCON2

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/01/2024

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

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

PRODUCER	CONTACT NAME: Isai Gomez
USI Southwest Inc. NM - CL 4100 Osuna Road NE Suite 2-203 Albuquerque, NM 87109 505 262-2621	PHONE (A/C, No, Ext): 602-374-1341 FAX (A/C, No): E-MAIL ADDRESS: isai.gomez@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Donegal Mutual Insurance Company	13692
INSURER B : New Mexico Mutual Casualty Company	40627
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
A.A.C. Construction, LLC
18 La Luna Rd
Santa Fe, NM 87507

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X PD Ded:1,000 GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X	X	CPT9557153	01/01/2024	01/01/2025	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$2,000,000 $500,000 $15,000 $2,000,000 $4,000,000 $4,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	X	X	1000111796	01/01/2024	01/01/2025	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$1,000,000 $ $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $0			CXL9557153	01/01/2024	01/01/2025	EACH OCCURRENCE AGGREGATE $	$5,000,000 $5,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N Y (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	93890109	04/04/2024	01/01/2025	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $1,000,000 $1,000,000 $1,000,000
A	Leased/ Rented Equipment			CPT9557153	01/01/2024	01/01/2025	$336,611 - Limit $1,000 - Deductible	

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

The General Liability and Automobile policies include an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed by or on behalf of the named insured.
The Genreral Liability, Automobile, and Workers Compensation policies provide a Blanket Waiver of
(See Attached Descriptions)

CERTIFICATE HOLDER

City of Santa Fe Water Division
801 W. San Mateo
Santa Fe, NM 87505

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

Subrogation in favor of the same, when required by written contract.
The General Liability policy contains a special endorsement with "Primary and Noncontributory" wording, when required by written contract.
The Inland Marine policy includes a Loss Payee endorsement that provides Loss Payee status to the Certificate holder as respects to the above referenced.

RE: Various Jobs and Projects

City of Santa Fe, New Mexico

memo

Date: October 29, 2024

To: Public Works and Utilities Committee / Finance Committee / City Council

Via: John Dupuis, Public Utilities Department Director
Jesse D. Roach, Water Division Director

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

Subject: Request approval of Amendment No. 2 to Price Agreement Item # 23-0183 with A.A.C. Construction LLC (AAC) to Increase Maximum Compensation by $1,581,875.00 for a New Total Contract Amount of $5,041,875.30 including NMGRT (Bill Huey, Engineer, bchuey@santafenm.gov)

Vendor Name: A.A.C. Construction LLC

Vendor Number: 7958

Contract Number: 3202927

ITEM AND ISSUE:

The Public Utilities Department, Water Division requests approval of Amendment No. 2 to Price Agreement Item # 23-0183 with A.A.C. Construction LLC (AAC) to Increase Maximum Compensation by $1,581,875.00 for a New Total Contract Amount of $5,041,875.30 including NMGRT with No Corresponding Change to the Term of the Agreement. (Bill Huey, Engineer, bchuey@santafenm.gov)

ACTION REQUESTED:

Approval of Amendment No. 2 to Price Agreement # 23-0183

BACKGROUND AND SUMMARY:

In July 2021, City Council awarded bid number '21/43/B for the Priority Line Replacement Price Agreement, CIP # 3058 to both A.A.C. Construction LLC (AAC) and Sub Surface Contracting Inc. for four (4) Fiscal Years, FY 2021-22 until FY2024-25 at the initial funding amount of $3,500,000 inclusive of NMGRT. Future funding was dependent upon the availability of CIP funds.

The Priority Line Replacement Price Agreement is an on-call requirements contract, with the Water Division issuing work orders as needed for work such as water line replacements. The contract is funded from CIP for Transmission and Distribution to work on their infrastructure.

The Water Division historically planned to upgrade pressure reducing valve vaults but has not done so in the last few years. We request adding a total of $1,000,000 to this contract, $500,000.00 for each contractor to begin this upgrade program again.

The Water Division is requesting approval of $1,581,875.00 (including NMGRT) additional funding to allow for this Fiscal Year's work to be conducted.

PROCUREMENT METHOD:

ITB/PA No. '21/43/B FY 21/22 Priority Line Replacement Price Agreement, CIP # 3058 approved by City Council on 7/28/2021.

Chief Procurement Officer Approval: _____ **Date:**_____
Comment/Exceptions:_____

Supporting Information:

CONTRACT NUMBER:
The FY25 Munis contract number for AAC is 3202927
The FY25 Project ledger number for Priority Line Replacement is WTR2550521

$$$$$ SOURCE/REVENUE: ☒Expense ☐Revenue

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

If the project is grant funded? List grant award number:_____

Grant Manager / Accounting Officer Approval: _____ **Date:**_____
Comment/Exceptions:_____

Project Ledger #:_____

Budget Officer Approval: Andy Hopkins **Date:** Oct 31, 2024
Comment/Exceptions:_____

CAPITAL ASSET (will this procurement result in a tangible item that costs more than $5,000?):

☒Yes | ☐ No

 # (if known): _____

Repair or Replacement of Existing Equipment:

☒Yes | ☐ No
If yes -> ☒Repair | ☒ Replacement

Please explain: Contract is used to repair main water line breaks and replace smaller sections of main water lines.

Capital Project:
(New and improvement projects that are going to cost $10,000 or more)
☒ Yes | ☐ No

Project Ledger #:_____

Anticipated length of project: To be determined

Asset Manager Approval:_____ **Date:**_____
Comment/Exceptions:_____

Department Approvals:
IT Components: ☐ **Yes | ☒ No**
Vehicles: ☐ **Yes | ☒ No**
Facilities, Furniture, Fixtures, Equipment: ☐ **Yes | ☒ No**

Approval:_____ **Title:**_____ **Date**:_____
Approval: _____ **Title:**_____ **Date**:_____
Comment & Exceptions:_____

Department Contract Administrator Contact Info:

Gina Wolff
vawolff@santafenm.gov

ATTACHMENTS:
Contract 3202927 Amendment No. 2
Budget Amendment Request (BAR)

cc:

Item# 24-0653
Munis Contract#3202927
Original Contract Item#21-0483
CIP #3058

CITY OF SANTA FE
AMENDMENT No. 2 TO
The Priority Line Replacement Price Agreement
ITEM#21-0483

This AMENDMENT No. 2 (the "Amendment") amends the CITY OF SANTA FE Agreement, dated September 10, 2021 (the "Agreement"), between the City of Santa Fe and A.A.C. Construction, LLC. 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 Contract, Contractor has agreed to provide the Priority Line Replacement for the City of Santa Fe.

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

1. COMPENSATION.

Article 2, paragraph A of the Contract is amended to increase the amount of compensation by a total of one million, five hundred and eighty-one thousand, eight hundred and seventy five dollars ($1,581,875.00) so that Article 2, paragraph A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at total amount up to five million, forty-one thousand, eight hundred and seventy-five dollars and thirty cents ($ $4,944,612.75). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling four hundred ninety three thousand six hundred fifteen dollars and fifty-two cents ($493,615.52) shall be paid by the

City to the Contractor as described in Exhibit A attached hereto. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed five million four hundred thirty eight thousand two hundred twenty eight dollars and twenty seven cents ($ $5,438,228.27). This amount is a maximum and not a guarantee that the work assigned to be performed by the Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

2. CONTRACT IN FULL FORCE.

Except as specifically provided in this Amendment, the Contract 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 Contract as of the dates set forth below.

CITY OF SANTA FE:

Alan Webber (Jan 15, 2025 10:47 MST)

ALAN WEBBER, MAYOR

DATE: Jan 15, 2025

CONTRACTOR:
A.A.C. Construction, LLC

Andrew Sisneros (Oct 26, 2024 06:24 MDT)

ANDREW SISNEROS, OWNER

DATE: Oct 26, 2024

CRS# 03-157349-00-5

Registration #19-00127501

ATTEST:

Andrea Salazar (Jan 15, 2025 10:53 MST)

~~GERALYN CARDENAS, INTERIM~~ CITY CLERK

GB MTG 11-13-2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Oct 28, 2024 08:09 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

Log # {Finance use only}:	BA002967
Journal # {Finance use only}:	pd 05 JE 551521

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

DEPARTMENT / DIVISION NAME	DATE
Public Utilities Department / Water Division	10/28/2024

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				{enter as positive #}	{enter as negative #}
Water Cap Proj, WIP Construction	5050395	572970	WTR2550521	1,581,875	
REVENUES				{enter as negative #}	{enter as positive #}
				$ 1,581,875	$ -

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

Please see attached Memo.

Contract (3202927) with A.A.C. Construction LLC for priority line repairs Amendment No. 2

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
505	(1,581,875)
TOTAL:	(1,581,875)

Jonna Leigh Stack for Bill Huey — 10/29/2024
Prepared By {print name} — Date

Oct 31, 2024
Division Director Signature {optional} — Date

John Dupuis (Oct 31, 2024 15:27 MDT) Oct 31, 2024
Department Director Signature, John Dupuis — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date: 11/13/2024

Agenda Item #: #9-o

Andy Hopkins — Oct 31, 2024
Budget Officer — Date

Finance Director {≤ $5,000} — Date

City Manager {≤ $60,000} — Date

GB AAC Contract Amendment 2 Munis Contract 3202927

Final Audit Report 2024-10-30

Created:	2024-10-30
By:	JAMES EDWARDS (jwedwards@santafenm.gov)
Status:	Canceled / Declined
Transaction ID:	CBJCHBCAABAALv-Wzon7KgiZ0So4eLIxvqVndD96XpIh

"GB AAC Contract Amendment 2 Munis Contract 3202927" History

Document created by JAMES EDWARDS (jwedwards@santafenm.gov)
2024-10-30 - 7:41:09 PM GMT- IP address: 63.232.20.2

Document emailed to ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature
2024-10-30 - 7:50:00 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2024-10-30 - 7:54:01 PM GMT- IP address: 104.47.65.254

Document declined by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Decline reason: BAR requires Dept Director signature before it comes to Budget.
2024-10-30 - 7:55:05 PM GMT- IP address: 63.232.20.2

Powered by Adobe Acrobat Sign

GB AAC Contract Amendment 2 Munis Contract 3202927 (1)

Final Audit Report 2024-11-06

Created:	2024-10-31
By:	JAMES EDWARDS (jwedwards@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZp8GD-HBWbp0KNlfU5kKAB9ijyTu0WlH

"GB AAC Contract Amendment 2 Munis Contract 3202927 (1)" History

Document created by JAMES EDWARDS (jwedwards@santafenm.gov)
2024-10-31 - 8:52:49 PM GMT- IP address: 75.233.144.205

Document emailed to John Dupuis (jedupuis@santafenm.gov) for signature
2024-10-31 - 8:57:26 PM GMT

Document e-signed by John Dupuis (jedupuis@santafenm.gov)
Signature Date: 2024-10-31 - 9:27:29 PM GMT - Time Source: server- IP address: 174.218.18.173

Document emailed to Jesse Roach (jdroach@santafenm.gov) for signature
2024-10-31 - 9:27:35 PM GMT

Email viewed by Jesse Roach (jdroach@santafenm.gov)
2024-10-31 - 9:33:35 PM GMT- IP address: 104.47.65.254

Document e-signed by Jesse Roach (jdroach@santafenm.gov)
Signature Date: 2024-10-31 - 9:34:16 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature
2024-10-31 - 9:34:24 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2024-10-31 - 11:23:17 PM GMT- IP address: 104.47.65.254

Document e-signed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Signature Date: 2024-10-31 - 11:23:53 PM GMT - Time Source: server- IP address: 63.232.20.2

Powered by Adobe Acrobat Sign

Document sent to JoAnn Lovato (jdlovato@santafenm.gov) and Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature. One of them to sign

2024-10-31 - 11:24:00 PM GMT

Email viewed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)

2024-11-01 - 5:53:25 AM GMT- IP address: 104.28.48.213

Email viewed by JoAnn Lovato (jdlovato@santafenm.gov)

2024-11-01 - 4:13:35 PM GMT- IP address: 63.232.20.2

Document e-signed by JoAnn Lovato (jdlovato@santafenm.gov)

Signature Date: 2024-11-01 - 10:05:29 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature

2024-11-01 - 10:05:36 PM GMT

Email viewed by EMILY OSTER (ekoster@santafenm.gov)

2024-11-06 - 0:38:38 AM GMT- IP address: 104.47.65.254

Document e-signed by EMILY OSTER (ekoster@santafenm.gov)

Signature Date: 2024-11-06 - 0:48:43 AM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.

2024-11-06 - 0:48:43 AM GMT

Signature: XAVIER VIGIL
XAVIER VIGIL (Jan 15, 2025 10:46 MST)

Email: xivigil@santafenm.gov

24-0653 AAC Construction, LLC

Final Audit Report 2025-01-15

Created:	2025-01-15
By:	XAVIER VIGIL (xivigil@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAez5mrUbfYaIFICGLIrnUwA_A2dRx5Cko

"24-0653 AAC Construction, LLC" History

Document created by XAVIER VIGIL (xivigil@santafenm.gov)
2025-01-15 - 5:42:14 PM GMT- IP address: 63.232.20.2

Document e-signed by XAVIER VIGIL (xivigil@santafenm.gov)
Signature Date: 2025-01-15 - 5:46:36 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to Alan Webber (amwebber@santafenm.gov) for signature
2025-01-15 - 5:46:43 PM GMT

Email viewed by Alan Webber (amwebber@santafenm.gov)
2025-01-15 - 5:47:44 PM GMT- IP address: 104.28.85.158

Document e-signed by Alan Webber (amwebber@santafenm.gov)
Signature Date: 2025-01-15 - 5:47:57 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to axsalazar@santafenm.gov for signature
2025-01-15 - 5:48:04 PM GMT

Email viewed by axsalazar@santafenm.gov
2025-01-15 - 5:53:18 PM GMT- IP address: 174.218.19.117

Signer axsalazar@santafenm.gov entered name at signing as Andrea Salazar
2025-01-15 - 5:53:57 PM GMT- IP address: 174.218.19.117

Document e-signed by Andrea Salazar (axsalazar@santafenm.gov)
Signature Date: 2025-01-15 - 5:53:59 PM GMT - Time Source: server- IP address: 174.218.19.117

Agreement completed.
2025-01-15 - 5:53:59 PM GMT

Item # 23-0183
Munis # 3202927

CITY OF SANTA FE
AMENDMENT No. 1 TO
THE AGREEMENT
ITEM# 21-0483

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE AGREEMENT, dated September 8, 2021 (the "Agreement"), between the City of Santa Fe (the "City") and AAC Construction, LLC, (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 Priority Line Replacement work for the City of Santa Fe.

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

1. COMPENSATION.

Article 2, paragraph A of the Agreement is amended to increase the amount of compensation by a total of two million two hundred and ten thousand dollars ($2,210,000) including applicable gross receipts tax, so that Article 2, paragraph A reads in its entirety:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at total amount up to one million one hundred and ninety three thousand one hundred and sixty two dollars and seventy five cents ($3,193,162.75). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling two hundred and sixty six thousand eight hundred and thirty seven dollars and twenty five cents. ($266,837.25) shall be paid by the City to the Contractor as described in Exhibit A attached hereto. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed three million four hundred and sixty thousand dollars ($3,460,000). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without**

compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

2. AGREEMENT IN FULL FORCE.

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

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

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

Date: Apr 30, 2023

CONTRACTOR:
AAC Construction, LLC

Andrew Sisneros

Digitally signed by Andrew Sisneros
DN: cn=Andrew Sisneros, o=A.A.C. Construction, LLC, ou, email=andrew@cnspi.net, c=US
Date: 2023.03.28 06:08:49 -06'00'

NAME & TITLE Managing Member

Date: 3-28-2023

CRS# 03-157349-00-5
Registration # 19-00127501

ATTEST:

KRISTINE BUSTOS MIHELCIC, CITY CLERK XIV
GB MTG 04/26/23

CITY ATTORNEY'S OFFICE:

Patricia Feghali
ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
Emily K. Oster (Apr 5, 2023 18:22 MDT)

Apr 5, 2023

EMILY OSTER, FINANCE DIRECTOR

5050395.572970 WTR1950536
Org/Obj

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3202927

Contractor: A.A.C Construction

Description: CIP# 3058 Priority Line Replacement

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

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

☑ Approved by Council Date: Pending

Contract / Lease: Contract $1,250,000

Amendment # 1 to the Original Contract / Lease # 21-0483

Increase/(Decrease) Amount $ $3,460,000

Extend Termination Date to: N/A

☉ Approved by Council Date: Pending

Amendment is for:

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

Original Contract # 21-0483 $1,250,000 approved 9/8/21

3. Procurement History: 21/43/B

For Apr 5, 2023

Purchasing Officer Review: Date:

Comment & Exceptions: amending compensation

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

Andy Hopkins (Apr 5, 2023 17:21 MDT) Apr 5, 2023

Budget Officer Approval: Date:

Comment & Exceptions:

Staff Contact who completed this form: Maya Martinez Phone # 4271

Email: mfmartinez@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe

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

BUSINESS REGISTRATION

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

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

CRS Number: 03157349-00-5

Owner: Andrew Sisneros

License Number: 222939

License Type: Business License - Renewable

Issued Date: May 20, 2022

Classification: Out of Jurisdiction Contractor - General

Expiration Date: May 20, 2023

Fees Paid: $10.00

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

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

Ver 1c 2.7.2020

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: A.A.C Contractors

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

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☐ _____

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

Department Requesting Bill Huey Water Division, PUD

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

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

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

Public Utilities Dept / Water Division/Bill Huey	Bill Huey	Engineer	
Department Rep Printed Name (attesting that all information included)		Title	Date
	for		Apr 5, 2023
Purchasing Officer (attesting that all information is reviewed)		Title	Date

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

*

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

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

DEPARTMENT / DIVISION NAME	DATE
PUD/Water/CIP	3/17/2023

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Water CIP WIP Construction	5050395	572970	WTR1950535	5,000,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 5,000,000	$ -

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

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

Price Agreements Amendments #1 to A.A.C Construction and Sub Surface for

FY 23 CIP3058

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
505	(5,000,000)
TOTAL:	**(5,000,000)**

Maya Martinez 3/17/2023
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

John Dupuis (Apr 4, 2023 17:41 MDT)
Department Director Signature Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 4/5/23
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

City of Santa Fe, New Mexico

memo

Date: August 9, 2021

To: Public Works-Public Utilities Committee / Finance Committee

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

Via: Jesse D. Roach, Water Division Director JR

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

ITEM AND ISSUE:

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

BACKGROUND AND SUMMARY:

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

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

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

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

A summary of the bids is provided below:

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

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

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

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

RECOMMENDATION:

The Water Division recommends:

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

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

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

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

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

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

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Water CIP WIP Construction	5050395	572970	WTR1950535	3,500,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
JUSTIFICATION: *(use additional page if needed)* *--Attach supporting documentation/memo*				$ 3,500,000	$ -

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

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

FY 2022 CIP3058

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

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

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

Division Director Signature *{optional}* — Date

Shannon Jones — 3/19/2021
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

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

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Item# 21-0483
Munis Contract# 3202927

CITY OF SANTA FE

PRIORITY LINE REPLACEMENTPRICE
AGREEMENT

CIP # 3058

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

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

A. The Contractor shall perform the following work and as described is Exhibit A attached hereto:

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

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

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

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

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

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

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

2. Compensation.

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

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

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

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2025** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended dateof termination. Except as otherwise allowed or provided under this Agreement, the City sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt

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

B. Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

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

6. Status of Contractor.

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

7. Construction Contract Performance and Payment Bond.

A. When a construction contract is awarded in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Award of the contract shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company

authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specifiedin the contract; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surcty to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specifiedin the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

B. A subcontractor shall provide a performance and payment bond on a public works Building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

8. Assignment.

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

9. Subcontracting.

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

10. Release.

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

11. Confidentiality.

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

12. Product of Service – Copyright.

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

13. Conflict of Interest: Governmental Conduct Act.

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

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

provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the City relied when this Agreement was enteredinto by the parties. Contractor shall provide immediate written notice to the City if, at any timeduring the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is laterdetermined that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason ofnew or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

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

14. Amendment.

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

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

15. Change Orders.

A. Changes. The Contractor may only make changes or revisions within the Scope of Work as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the City Manager or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Scope of Work;
2) Due date of any Deliverable, as outlined in the Scope of Work;
3) Compensation of any Deliverable, as outlined in the Scope of Work;
4) Agreement compensation, as outlined in Article 2; or
5) Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1) The Project Manager shall draft a written Change Request for review and approval by the City Manager to include:
   (a) the name of the person requesting the change;
   (b) a summary of the required change;
   (c) the start date for the change;
   (d) the reason and necessity for change;
   (e) the elements to be altered; and
   (f) The impact of the change.

2) The City Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the City Manager are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.

16. Merger.

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

17. Penalties for violation of law.

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

18. Equal Opportunity Compliance.

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

19. Applicable Law.

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

20. Workers Compensation.

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

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

22. Other Insurance

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

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

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

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

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

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

23. Records and Financial Audit.

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

24. Indemnification.

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

25. New Mexico Tort Claims Act

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

Tort Claims Act.

26. Invalid Term or Condition.

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

27. Enforcement of Agreement.

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

28. Notices.

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

To the City:
Water Division Director
801 W. San Mateo
Santa Fe, NM 87505

To the Contractor:
A.AC Construction LLC
18 La Luna Road
Santa Fe, NM 87507

29. Authority.

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

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

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Sep 12, 2021

CONTRACTOR:

Andrew Sisneros (Aug 19, 2021 16:05 MDT)

NAME
Andrew Sisneros, Managing Member

TITLE
DATE: Aug 19, 2021

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

ATTEST:

Kristine Mihelcic
Kristine Mihelcic (Sep 15, 2021 12:10 MDT)

KRISTINE BUSTOS MIHELCIC, CITY CLERK
GB MTG 09/08/2021

CITY ATTORNEY'S OFFICE:

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

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

5050395.572970
Org. Name/Org#

AJH
AJH

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

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

				AAC		Sub Surface	
Bid Item	Approx. QTY.	Unit	Article and Description	Unit Price	Item Price	Unit Price	Item Price
545	1	ACRE	Native Seeding	$ 2,606.00	$ 2,606.00	$ 2,275.00	$ 2,275.00
550	1	EA	Bollards (pair)	$ 1,180.00	$ 1,180.00	$ 975.00	$ 975.00
555	18	LF	4" Steel Casing	$ 31.37	$ 564.66	$ 95.00	$ 1,710.00
560	18	LF	4" PVC Casing	$ 15.40	$ 277.20	$ 75.00	$ 1,350.00
565	18	LF	14" Steel Casing	$ 107.43	$ 1,933.74	$ 175.00	$ 3,150.00
570	18	LF	16" Steel Casing	$ 124.02	$ 2,232.36	$ 200.00	$ 3,600.00
575	18	LF	18" Steel Casing	$ 144.03	$ 2,592.54	$ 275.00	$ 4,950.00
580	18	LF	22" Steel Casing	$ 234.94	$ 4,228.92	$ 300.00	$ 5,400.00
585	18	LF	26" Steel Casing	$ 290.67	$ 5,232.06	$ 400.00	$ 7,200.00
590	18	LF	28" Steel Casing	$ 187.04	$ 3,366.72	$ 450.00	$ 8,100.00
595	18	LF	30" Steel Casing	$ 187.04	$ 3,366.72	$ 450.00	$ 8,100.00
600	18	LF	36" Steel Casing	$ 287.03	$ 5,166.54	$ 500.00	$ 9,000.00
605	50	DIA-IN-LF	Bore & Jack Casing Pipe	$ 575.00	$ 28,750.00	$ 40.00	$ 2,000.00
610	18	LF	Open Cut Casing Pipe Installation, < 6' Deep	$ 62.00	$ 1,116.00	$ 39.00	$ 702.00
615	25	SY	Asphalt Pavement Removal & Disposal, <2"	$ 29.50	$ 737.50	$ 65.00	$ 1,625.00
620	200	SY	Asphalt Pavement Removal & Disposal, 2"-6"	$ 17.70	$ 3,540.00	$ 65.00	$ 13,000.00
625	10	SY	Concrete Pavement Removal & Disposal, <2"	$ 97.50	$ 975.00	$ 90.00	$ 900.00
630	10	SY	Concrete Pavement Removal & Disposal, 2"-6"	$ 132.50	$ 1,325.00	$ 95.00	$ 950.00
635	50	LF	Concrete Curb and Gutter Removal & Disposal	$ 12.00	$ 600.00	$ 25.00	$ 1,250.00
640	10	SY	Concrete Sidewalk Removal & Disposal	$ 65.00	$ 650.00	$ 30.00	$ 300.00
645	50	SY	Replace City Street Pavement w/o Laydown Machine, Virgin Asphalt	$ 74.50	$ 3,725.00	$ 75.00	$ 3,750.00
650	50	SY	Replace City Street Pavement w/o Laydown Machine, Recycled Asphalt	$ 74.50	$ 3,725.00	$ 75.00	$ 3,750.00
655	50	SY	Replace City Street Pavement with Laydown Machine, Virgin Asphalt	$ 72.00	$ 3,600.00	$ 75.00	$ 3,750.00
660	10	SY	Replace City Street Pavement with Laydown Machine, Recycled Asphalt	$ 84.96	$ 849.60	$ 75.00	$ 750.00
665	10	SY	Replace City Street Pavement with Temporary Cold Mix	$ 167.56	$ 1,675.60	$ 75.00	$ 750.00
670	100	SY	Replace Non-City Street Pavement w/o Laydown Machine, Virgin Asphalt	$ 74.50	$ 7,450.00	$ 75.00	$ 7,500.00
675	10	SY	Replace Non-City Street Pavement w/o Laydown Machine, Recycled Asphalt	$ 74.50	$ 745.00	$ 75.00	$ 750.00
680	10	SY	Replace Non-City Street Pavement with Laydown Machine, Virgin Asphalt	$ 92.00	$ 920.00	$ 75.00	$ 750.00
685	10	SY	Replace Non-City Street Pavement with Laydown Machine, Recycled Asphalt	$ 92.00	$ 920.00	$ 75.00	$ 750.00
690	1	SY	Replace Non-City Street Pavement with Temporary Cold Mix	$ 167.56	$ 167.56	$ 75.00	$ 75.00
695	10	SY	Replace Concrete Pavement	$ 261.50	$ 2,615.00	$ 275.00	$ 2,750.00
700	50	LF	Replace Concrete Curb & Gutter	$ 45.00	$ 2,250.00	$ 45.00	$ 2,250.00
705	10	SY	Replace Concrete Sidewalk	$ 155.00	$ 1,550.00	$ 170.00	$ 1,700.00
710	10	CY	Replace Gravel Surface, 0"-2"	$ 56.00	$ 560.00	$ 85.00	$ 850.00
715	10	CY	Replace Gravel Surface, 2"-4"	$ 66.00	$ 660.00	$ 120.00	$ 1,200.00
720	150	SY	Base course/Gravel (crushed or landscape), 0"-3"	$ 34.00	$ 5,100.00	$ 35.00	$ 5,250.00
725	50	SY	Base course/Gravel (crushed or landscape), 3"-6"	$ 45.00	$ 2,250.00	$ 45.00	$ 2,250.00
730	4	EA	Service, 3/4" Single, New Main	$ 1,262.50	$ 5,050.00	$ 1,475.00	$ 5,900.00
735	2	EA	Service, 3/4" Double, New Main	$ 1,662.50	$ 3,325.00	$ 1,775.00	$ 3,550.00
740	2	EA	Service, 1", New Main	$ 1,887.50	$ 3,775.00	$ 1,825.00	$ 3,650.00
745	1	EA	Service, 1 1/2", New Main	$ 3,670.00	$ 3,670.00	$ 3,450.00	$ 3,450.00
750	1	EA	Service, 2", New Main	$ 3,985.00	$ 3,985.00	$ 3,870.00	$ 3,870.00
755	5	EA	Service, 3/4" Single, Existing Main	$ 1,450.00	$ 7,250.00	$ 1,475.00	$ 7,375.00
760	2	EA	Service, 3/4" Double, Existing Main	$ 1,912.50	$ 3,825.00	$ 1,775.00	$ 3,550.00
765	1	EA	Service, 1", Existing Main	$ 1,900.00	$ 1,900.00	$ 1,825.00	$ 1,825.00
770	1	EA	Service, 1 1/2", Existing Main	$ 3,670.00	$ 3,670.00	$ 3,450.00	$ 3,450.00
775	1	EA	Service, 2", Existing Main	$ 4,300.00	$ 4,300.00	$ 3,870.00	$ 3,870.00
780	5	EA	Service Replacement, 3/4"	$ 1,602.50	$ 8,012.50	$ 1,475.00	$ 7,375.00
785	2	EA	Service Replacement, Double, 3/4"	$ 1,950.00	$ 3,900.00	$ 1,775.00	$ 3,550.00
790	1	EA	Service Replacement, 1"	$ 2,100.00	$ 2,100.00	$ 1,825.00	$ 1,825.00

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

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3202927

Contractor: A.A.C Construction

Description: CIP# 3058 Priority Line Repl acement

Contract ☐ Agreement ◉ Lease / Rent ☐ Amendment ☐

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

☑ Approved by Council Date: Pending

Contract / Lease: Contract $1,250,000

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. Procurement History: 21/43/B

Aug 23, 2021

Purchasing Officer Review: Date:

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

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

Andy Hopkins

Aug 23, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: Maya Martinez Phone # 4271

Email: mfmartinez@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CERTIFICATE OF LIABILITY INSURANCE

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

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

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

PRODUCER	CONTACT NAME: Susan Vance
Downey & Company 6565 AMERICAS PARKWAY NE SUITE 750 ALBUQUERQUE NM 87110	PHONE (A/C, No, Ext): (505) 881-0300 FAX (A/C, No): (505) 881-0908 E-MAIL ADDRESS: svance@downeyandco.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Donegal Insurance Group	
INSURER B: New Mexico Mutual Casualty Company	
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED: A.A.C. Construction, LLC, 18 La Luna Rd, Santa Fe NM 87507

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

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

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

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

CERTIFICATE HOLDER

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

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Susan J. Vance

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

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

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

10.3 EMERGENCIES

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

ARTICLE 11

INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

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

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

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

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

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

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

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

11.2 CITY OF SANTA FE'S LIABILITY INSURANCE

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

11.3 PROPERTY INSURANCE

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

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

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

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

11.4 LOSS OF USE INSURANCE

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

City of Santa Fe

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

BUSINESS REGISTRATION

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

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

CRS Number: 03157349-00-5

Owner: Andrew Sisneros

License Number: 222939

License Type: Business License - Renewable

Issued Date: June 07, 2021

Classification: Out of Jurisdiction Contractor - General

Expiration Date: June 07, 2022

Fees Paid: $10.00

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

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

Ver 16 2/7/2020

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: A.A.C Contractors

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

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☐ _____

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

Department Requesting Bill Huey Water Division, PUD

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

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

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

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

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

*

Item# 21-0483
Munis Contract# 3202927

CITY OF SANTA FE

PRIORITY LINE REPLACEMENTPRICE
AGREEMENT

CIP # 3058

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

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

A. The Contractor shall perform the following work and as described is Exhibit A attached hereto:

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

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

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

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

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

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

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

2. Compensation.

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

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

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

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2025** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended dateof termination. Except as otherwise allowed or provided under this Agreement, the City sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt

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

B. Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

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

6. Status of Contractor.

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

7. Construction Contract Performance and Payment Bond.

A. When a construction contract is awarded in excess of twenty-five thousand dollars ($25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Award of the contract shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company

authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specifiedin the contract; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surcty to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specifiedin the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

B. A subcontractor shall provide a performance and payment bond on a public works Building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars ($125,000) or more.

8. Assignment.

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

9. Subcontracting.

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

10. Release.

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

11. Confidentiality.

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

12. Product of Service – Copyright.

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

13. Conflict of Interest: Governmental Conduct Act.

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

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

provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the City relied when this Agreement was enteredinto by the parties. Contractor shall provide immediate written notice to the City if, at any timeduring the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is laterdetermined that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason ofnew or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

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

14. Amendment.

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

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

15. Change Orders.

A. Changes. The Contractor may only make changes or revisions within the Scope of Work as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the City Manager or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1) Deliverable requirements, as outlined in the Scope of Work;
2) Due date of any Deliverable, as outlined in the Scope of Work;
3) Compensation of any Deliverable, as outlined in the Scope of Work;
4) Agreement compensation, as outlined in Article 2; or
5) Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1) The Project Manager shall draft a written Change Request for review and approval by the City Manager to include:
   (a) the name of the person requesting the change;
   (b) a summary of the required change;
   (c) the start date for the change;
   (d) the reason and necessity for change;
   (e) the elements to be altered; and
   (f) The impact of the change.

2) The City Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the City Manager are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.

16. Merger.

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

17. Penalties for violation of law.

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

18. Equal Opportunity Compliance.

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

19. Applicable Law.

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

20. Workers Compensation.

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

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

22. Other Insurance

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

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

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

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

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

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

23. Records and Financial Audit.

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

24. Indemnification.

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

25. New Mexico Tort Claims Act

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

Tort Claims Act.

26. Invalid Term or Condition.

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

27. Enforcement of Agreement.

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

28. Notices.

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

To the City:
Water Division Director
801 W. San Mateo
Santa Fe, NM 87505

To the Contractor:
A.AC Construction LLC
18 La Luna Road
Santa Fe, NM 87507

29. Authority.

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

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

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Sep 12, 2021

CONTRACTOR:

Andrew Sisneros (Aug 19, 2021 16:05 MDT)

NAME
Andrew Sisneros, Managing Member

TITLE
DATE: Aug 19, 2021

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

ATTEST:

Kristine Mihelcic
Kristine Mihelcic (Sep 15, 2021 12:10 MDT)

KRISTINE BUSTOS MIHELCIC, CITY CLERK
GB MTG 09/08/2021

CITY ATTORNEY'S OFFICE:

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

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

5050395.572970
Org. Name/Org#

AJH
AJH

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

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

				AAC		Sub Surface	
Bid Item	Approx. QTY.	Unit	Article and Description	Unit Price	Item Price	Unit Price	Item Price
545	1	ACRE	Native Seeding	$ 2,606.00	$ 2,606.00	$ 2,275.00	$ 2,275.00
550	1	EA	Bollards (pair)	$ 1,180.00	$ 1,180.00	$ 975.00	$ 975.00
555	18	LF	4" Steel Casing	$ 31.37	$ 564.66	$ 95.00	$ 1,710.00
560	18	LF	4" PVC Casing	$ 15.40	$ 277.20	$ 75.00	$ 1,350.00
565	18	LF	14" Steel Casing	$ 107.43	$ 1,933.74	$ 175.00	$ 3,150.00
570	18	LF	16" Steel Casing	$ 124.02	$ 2,232.36	$ 200.00	$ 3,600.00
575	18	LF	18" Steel Casing	$ 144.03	$ 2,592.54	$ 275.00	$ 4,950.00
580	18	LF	22" Steel Casing	$ 234.94	$ 4,228.92	$ 300.00	$ 5,400.00
585	18	LF	26" Steel Casing	$ 290.67	$ 5,232.06	$ 400.00	$ 7,200.00
590	18	LF	28" Steel Casing	$ 187.04	$ 3,366.72	$ 450.00	$ 8,100.00
595	18	LF	30" Steel Casing	$ 187.04	$ 3,366.72	$ 450.00	$ 8,100.00
600	18	LF	36" Steel Casing	$ 287.03	$ 5,166.54	$ 500.00	$ 9,000.00
605	50	DIA-IN-LF	Bore & Jack Casing Pipe	$ 575.00	$ 28,750.00	$ 40.00	$ 2,000.00
610	18	LF	Open Cut Casing Pipe Installation, < 6' Deep	$ 62.00	$ 1,116.00	$ 39.00	$ 702.00
615	25	SY	Asphalt Pavement Removal & Disposal, <2"	$ 29.50	$ 737.50	$ 65.00	$ 1,625.00
620	200	SY	Asphalt Pavement Removal & Disposal, 2"-6"	$ 17.70	$ 3,540.00	$ 65.00	$ 13,000.00
625	10	SY	Concrete Pavement Removal & Disposal, <2"	$ 97.50	$ 975.00	$ 90.00	$ 900.00
630	10	SY	Concrete Pavement Removal & Disposal, 2"-6"	$ 132.50	$ 1,325.00	$ 95.00	$ 950.00
635	50	LF	Concrete Curb and Gutter Removal & Disposal	$ 12.00	$ 600.00	$ 25.00	$ 1,250.00
640	10	SY	Concrete Sidewalk Removal & Disposal	$ 65.00	$ 650.00	$ 30.00	$ 300.00
645	50	SY	Replace City Street Pavement w/o Laydown Machine, Virgin Asphalt	$ 74.50	$ 3,725.00	$ 75.00	$ 3,750.00
650	50	SY	Replace City Street Pavement w/o Laydown Machine, Recycled Asphalt	$ 74.50	$ 3,725.00	$ 75.00	$ 3,750.00
655	50	SY	Replace City Street Pavement with Laydown Machine, Virgin Asphalt	$ 72.00	$ 3,600.00	$ 75.00	$ 3,750.00
660	10	SY	Replace City Street Pavement with Laydown Machine, Recycled Asphalt	$ 84.96	$ 849.60	$ 75.00	$ 750.00
665	10	SY	Replace City Street Pavement with Temporary Cold Mix	$ 167.56	$ 1,675.60	$ 75.00	$ 750.00
670	100	SY	Replace Non-City Street Pavement w/o Laydown Machine, Virgin Asphalt	$ 74.50	$ 7,450.00	$ 75.00	$ 7,500.00
675	10	SY	Replace Non-City Street Pavement w/o Laydown Machine, Recycled Asphalt	$ 74.50	$ 745.00	$ 75.00	$ 750.00
680	10	SY	Replace Non-City Street Pavement with Laydown Machine, Virgin Asphalt	$ 92.00	$ 920.00	$ 75.00	$ 750.00
685	10	SY	Replace Non-City Street Pavement with Laydown Machine, Recycled Asphalt	$ 92.00	$ 920.00	$ 75.00	$ 750.00
690	1	SY	Replace Non-City Street Pavement with Temporary Cold Mix	$ 167.56	$ 167.56	$ 75.00	$ 75.00
695	10	SY	Replace Concrete Pavement	$ 261.50	$ 2,615.00	$ 275.00	$ 2,750.00
700	50	LF	Replace Concrete Curb & Gutter	$ 45.00	$ 2,250.00	$ 45.00	$ 2,250.00
705	10	SY	Replace Concrete Sidewalk	$ 155.00	$ 1,550.00	$ 170.00	$ 1,700.00
710	10	CY	Replace Gravel Surface, 0"-2"	$ 56.00	$ 560.00	$ 85.00	$ 850.00
715	10	CY	Replace Gravel Surface, 2"-4"	$ 66.00	$ 660.00	$ 120.00	$ 1,200.00
720	150	SY	Base course/Gravel (crushed or landscape), 0"-3"	$ 34.00	$ 5,100.00	$ 35.00	$ 5,250.00
725	50	SY	Base course/Gravel (crushed or landscape), 3"-6"	$ 45.00	$ 2,250.00	$ 45.00	$ 2,250.00
730	4	EA	Service, 3/4" Single, New Main	$ 1,262.50	$ 5,050.00	$ 1,475.00	$ 5,900.00
735	2	EA	Service, 3/4" Double, New Main	$ 1,662.50	$ 3,325.00	$ 1,775.00	$ 3,550.00
740	2	EA	Service, 1", New Main	$ 1,887.50	$ 3,775.00	$ 1,825.00	$ 3,650.00
745	1	EA	Service, 1 1/2", New Main	$ 3,670.00	$ 3,670.00	$ 3,450.00	$ 3,450.00
750	1	EA	Service, 2", New Main	$ 3,985.00	$ 3,985.00	$ 3,870.00	$ 3,870.00
755	5	EA	Service, 3/4" Single, Existing Main	$ 1,450.00	$ 7,250.00	$ 1,475.00	$ 7,375.00
760	2	EA	Service, 3/4" Double, Existing Main	$ 1,912.50	$ 3,825.00	$ 1,775.00	$ 3,550.00
765	1	EA	Service, 1", Existing Main	$ 1,900.00	$ 1,900.00	$ 1,825.00	$ 1,825.00
770	1	EA	Service, 1 1/2", Existing Main	$ 3,670.00	$ 3,670.00	$ 3,450.00	$ 3,450.00
775	1	EA	Service, 2", Existing Main	$ 4,300.00	$ 4,300.00	$ 3,870.00	$ 3,870.00
780	5	EA	Service Replacement, 3/4"	$ 1,602.50	$ 8,012.50	$ 1,475.00	$ 7,375.00
785	2	EA	Service Replacement, Double, 3/4"	$ 1,950.00	$ 3,900.00	$ 1,775.00	$ 3,550.00
790	1	EA	Service Replacement, 1"	$ 2,100.00	$ 2,100.00	$ 1,825.00	$ 1,825.00

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

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

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

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

10.3 EMERGENCIES

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

ARTICLE 11

INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

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

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

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

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

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

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

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

11.2 CITY OF SANTA FE'S LIABILITY INSURANCE

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

11.3 PROPERTY INSURANCE

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

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

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

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

11.4 LOSS OF USE INSURANCE

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

City of Santa Fe, New Mexico

memo

Date: March 28, 2023

To: Finance Committee / Public Works-Public Utilities Committee

Via: Emily Oster, Finance Director EKO
Travis Dutton-Leyda, Chief Procurement Officer TDL
John Dupuis, Public Utilities Department Director
Jesse D. Roach, Water Division Director

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

RE: Request to add funds to bid number '21/43/B for the FY 2223 Priority Line Replacement Price Agreement, CIP # 3058 A.A.C. Construction, LLC. in the amount of $2,210,000.00 including NMGRT for the remainder of the contract term (FY2024-25). Approval of the BAR – Budget Increase in the amount of $5,000,000

ITEM AND ISSUE:

The Water Division requests increasing the amount of award for bid number '21/43/B for Priority Line Replacement Price Agreement, CIP # 3058 to A.A.C. Construction, LLC by $2,210,000.00 inclusive of NMGRT for the remaining three (3) Fiscal Years, FY 2022-23 until FY2024-25.

Approval of the BAR – Budget Increase in the amount of $5,000,000 from the Water Enterprise Fund cash balance into the Water CIP fund, of which $2,210,000 is for this amendment.

BACKGROUND AND SUMMARY:

City Council has awarded bid number '21/43/B for the Priority Line Replacement Price Agreement, CIP # 3058 to Sub Surface Contracting, Inc. (Sub Surface) and A.A.C. Construction, LLC (AAC) for four (4) Fiscal Years, FY 2021-22 until FY2024-25 in the amount of $3,500,000 inclusive of NMGRT. Future funding was dependent upon the availability of CIP funds.

The Priority Line Replacement Price Agreement is an on-call requirements contract, with the Water Division issuing work orders as needed for work such as water line replacements. The contract is funded from CIP for Transmission and Distribution to work on their infrastructure.

Current expenditures on this contract are still at or below the initial contract amount. Current work on the contract will need additional funds. The contract funding needed for the completion of the contract term for AAC is $2,210,000.00 inclusive of NMGRT. Total funding for the entire contract with AAC will be $3,460,000 inclusive of NMGRT.

The attached BAR/Increase will provide funding for this AAC PLR Amendment #1 in the amount of $2,210,000 and the following Agenda Item Sub Surface PLR Amendment #1 in the amount of $2,790,000 for a combined amount of $5,000,000.

PROCUREMENT:
21/43/B for the FY 2022 Priority Line Replacement

CONTRACT NUMBER:

A.A.C Construction # 3202778.

FUNDING SOURCE:
The funding source is:
Water Enterprise Fund/ CIP
FY 2023
Fund Name/Number: Water Enterprise Fund/ 500
Munis Org Name/Number: Water CIP / 5050395
Munis Object Name/Number: WIP Construction / 572970

RECOMMENDATION:

The Water Division recommends:

- Review and approval of increase of contract amount to A.A.C Construction, LLC for Priority Line Replacement Price Agreement, CIP # 3058 under ITB No. '21/43/B of $2,210,000.00 for a total amount of $3,460,000.00 inclusive of NMGRT through FY2024-25.

- Approval of the BAR/Increase to provide funding for this AAC PLR Amendment #1 in the amount of $2,210,000 and the following Agenda Item Sub Surface PLR Amendment #1 in the amount of $2,790,000 for a combined amount of $5,000,000.

Amendment 3 Memo_Revised (1)

Interim Agreement Report 2025-02-13

Created:	2025-02-12
By:	Kristy Miera (kamiera@santafenm.gov)
Status:	Out for Signature
Transaction ID:	CBJCHBCAABAAp0ZXY3m4X25ZbeE9xIJBGvXG2-FHTqdP

Agreement History

Agreement history is the list of the events that have impacted the status of the agreement prior to the final signature. A final audit report will be generated when the agreement is complete.

"Amendment 3 Memo_Revised (1)" History

Document created by Kristy Miera (kamiera@santafenm.gov)
2025-02-12 - 5:29:36 PM GMT- IP address: 173.184.239.1

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2025-02-12 - 5:41:47 PM GMT

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2025-02-12 - 9:09:16 PM GMT- IP address: 174.244.23.54

Document e-signed by Jesse Roach (jdroach@santafenm.gov)
Signature Date: 2025-02-12 - 9:10:49 PM GMT - Time Source: server- IP address: 174.244.23.54

Document sent to ALEXIS LOTERO (aclotero@santafenm.gov) and ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov) for signature. One of them to sign
2025-02-12 - 9:10:56 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2025-02-12 - 10:08:51 PM GMT- IP address: 104.47.65.254

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Signature Date: 2025-02-12 - 10:09:10 PM GMT - Time Source: server- IP address: 63.232.20.2

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2025-02-12 - 10:09:16 PM GMT

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2025-02-12 - 10:27:47 PM GMT- IP address: 104.47.64.254

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Document e-signed by Josie Bolden (jxbolden@santafenm.gov)
Signature Date: 2025-02-12 - 10:28:37 PM GMT - Time Source: server- IP address: 63.232.20.2

Document sent to JoAnn Lovato (jdlovato@santafenm.gov) and Travis Dutton-Leyda (tkduttonleyda@santafenm.gov) for signature. One of them to sign
2025-02-12 - 10:28:43 PM GMT

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2025-02-13 - 6:06:28 AM GMT- IP address: 129.222.129.80

Document e-signed by Travis Dutton-Leyda (tkduttonleyda@santafenm.gov)
Signature Date: 2025-02-13 - 4:22:32 PM GMT - Time Source: server- IP address: 63.232.20.2

Document emailed to EMILY OSTER (ekoster@santafenm.gov) for signature
2025-02-13 - 4:22:39 PM GMT

CITY OF SANTA FE

Date: January 24, 2025

To: Governing Body

Via: Regina Wheeler
Regina Wheeler (Jan 27, 2025 09:30 MST)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, PhD, CPM, Capital Projects Manager RGM

ACTION:
Request for Approval of a Budget Amendment Resolution (BAR) in the Total Amount of $92,737 Using $69,553 Grant Funding and $23,184 Road Impact Fees for the Complete Streets WIP Design for the Santa Fe Rail Trail Intersection Improvements Project. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager, rsglorioso-moss@santafenm.gov)

BACKGROUND AND SUMMARY:
The Rail Trail Intersection Improvements Project seeks to improve the intersections of Rail Trail at Paseo de Peralta, San Mateo Road, Siringo Road, and Rodeo Road and to improve accessibility and ADA compliance. Total project cost including construction is estimated at $2M. Design of these improvements is at 30% complete.

The $69,553 is from an NMDOT grant signed by City Manager in October 2024 (see attached). Local match of $23,184 will be provided from Road Impact Fees. These additional funds will allow the project to achieve 100% design.

FUNDING: New Mexico Department of Transportation L500577
Munis Org Name/Number: Streets Roadways /3309980
Munis Object Name/Number: WIP Design/572960
Project ID/String: GO183550BP-Design-RAILTRAL

ATTACHMENTS:
BAR
NM DOT Funding Approved Agreement

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / Streets and Roadways CIP	8/15/2024

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction - Rail Trail Intersection Improvements	3309980	572970	GO18355BP-Design-RAILTRAL	92,737	
Impact Fees - Capital Transfer Out to Streets/Rdways CIP	2320471	760330		23,184	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NMDOT - Rail Trail Intersection Improvements L500577	3309980	490150	GO18355BP-Design-RAILTRAL	(69,553)	
Roadways/Trails CIP - Capital Transfer In from Impact Fees	3309980	660232		(23,184)	
				$ 23,184	$ -

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

Agreement with NMDOT for Traffic Signal Improvements in the amount of $69,553 with a local match of $23,184 from Impact Fees for a total of $92,737. (L500577 expires 12/31/2025)

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
330	23,184
232	(23,184)
TOTAL:	**0**

Halona Crowe — 8/15/2024
Prepared By *{print name}* — Date

Division Director Signature — Date

Regina Wheeler
Regina Wheeler (Jan 27, 2025 09:30 MST)
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins
Budget Officer — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

Contract No. D20485
Vendor No. 0000054360
Control No. HW2L500577

LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Santa Fe** (Public Entity), collectively referred as the "parties." This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, and

Pursuant to the Public Entity's resolution that assumes ownership, liability, and maintenance responsibility for the project scope, or related amenities, and required funding to support the Project identified herein, the parties agree as follows:

1. **Purpose.**
   The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the Project, as described in Control No. L500577, and the Public Entity's resolution attached as **Exhibit C**. See:

   Reconstruction, Traffic Signal Improvements

   The Project is a joint and coordinated effort for which the parties each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. **Project Funding.**
   a. The estimated total cost for the Project is **Ninety Two Thousand Seven Hundred Thirty Seven Dollars and No Cents ($92,737)** to be funded in proportional share by the parties as follows:

Project Funding	Department Share	Public Entity Share	Total Project Cost
Funding Source 1	**75%**	**25%**	
FY 2025 Local Government Road Fund **For the purpose stated above in Section 1.**	**$69,553**	**$23,184**	**$92,737**
		Total Project Cost	**$92,737**

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b. The Public Entity shall pay all Project costs, which exceed the Total Project Cost.
c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. **The Department Shall:**
Pay the Department's Share of Project Funding identified in Section 2, Paragraph a, to the Public Entity in a single lump sum payment after:
a. Receipt of a cover letter requesting funds;
b. Receipt of a Notice of Award and Notice to Proceed;
c. Receipt of Estimated Summary of Costs and Quantities;
d. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a; and
e. All required documents must include Department Project and Control Number.

4. **The Public Entity Shall:**
a. Act in the capacity of lead agency for the Project described in Section 1.
b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) calendar days of execution of this Agreement, or as otherwise agreed to in writing by the parties.
c. Be solely responsible for all proportional matching funds identified in Section 2. Certify that these matching funds have been appropriated, budgeted, and approved for expenditure prior to execution of this Agreement.
d. Pay all costs, and perform and supply or contract for all labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
f. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
g. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as approved by the Department.
h. Obtain all required written agreements or permits, as applicable, from all public and private entities.
i. Allow the Department to inspect the Project to confirm that the Project is constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as identified by the Department, will result in termination for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
k. Within thirty (30) calendar days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction,**

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and Cost form, attached as **Exhibit B**.

l. Within thirty (30) calendar days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, attached as **Exhibit C**. The report should reflect the total cost of the Project as stated in the **Project Certification of Design, Construction, and Cost** form.

m. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) calendar days of Project completion is a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this Agreement.

n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.

b. Any unexpended or unencumbered balance from the Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar days of project completion or expiration of this Agreement, whichever occurs first.

c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.

d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.

e. As applicable for state-funded projects, the provisions of the Tribal/Local Public Agency (T/LPA) State Funding Handbook (Current Edition), and for projects with federal funds, the provisions of the Tribal/Local Public Agency (T/LPA) Federal Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on **12/31/2025**. In the event an extension to the term is needed, the Public Entity shall provide through a duly authorized agent written notice along with detailed justification to the Department sixty (60) calendar days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) calendar days written notice.

b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this Agreement.

c. If sufficient appropriations and authorizations are not made, this Agreement will terminate immediately upon written notice of the Department to the Public Entity.

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d. Neither party has any obligation after termination, except as stated in Sections 4, 5, and 16.

8. Third Party Beneficiary.

It is not intended by any of the provisions of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain suit for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. Liability.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*, and other applicable law.

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance and endorsements listing the Department as an additional insured must be provided to the Department and must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

This Agreement incorporates agreements, covenants, and understandings between the parties concerning the subject matter. All such covenants, agreements, and understandings have been merged into this Agreement. No prior agreement or understandings, verbal or otherwise, of the parties or their agents are valid or enforceable unless included in this Agreement.

12. Terms of this Agreement.

The terms of this Agreement are lawful. Performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, and local laws, and Department regulations and policies in the performance of this Agreement, including, but not

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limited to laws governing civil rights, equal opportunity compliance, environmental issues, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is found to not comply with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies, subject to Section 7 above.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature of New Mexico, or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) calendar days. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) calendar days of written notification.

17. Severability.

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

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

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19. Amendment.

This Agreement may be altered, modified, or amended only by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

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

NEW MEXICO DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: Mallery Manzanares Date: 10/25/24
83F307B82C81449...
Cabinet Secretary or Designee

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

DocuSigned by:
By: Sundeyeet kaur Date: 10/23/24
CBDDF719FE734A2...
Assistant General Counsel

City of Santa Fe

By: John Blair Date: Oct 8, 2024
John Blair (Oct 8, 2024 11:50 MDT)
John Blair, City Manager

Attest: Date: Oct 8, 2024
Geralyn Cardenas, Interim City Clerk
XIV

Approved as to form:

Marcos Martinez
Marcos Martinez (Jul 25, 2024 13:53 MDT)
Marcos Martinez Date: Jul 25, 2024
Senior Assistant City Attorney

Approved for finance:

Emily K. Oster
Emily Oster, Finance Director Date: 10/01/2024

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

EXHIBIT A
PROJECT CERTIFICATION OF DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ LGRF Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

_____
_____
_____
_____
_____

I, the undersigned, in my capacity as _____ of _____ state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement and in the Tribal/Local Public Agency State Funding Handbook (Current Edition);

2. Construction of the project was performed in accordance with standards and specifications set forth in:

_____
and completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 75% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

_____ _____
Name Date

_____
Print Name

_____
Title

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

EXHIBIT B

AS BUILT SUMMARY
OF COSTS AND QUANTITIES
CONTRACT

ENTITY: _____ No.: _____ CN: _____

PROJECT No.: _____

TERMINI: _____

_____

SCOPE OF WORK: _____

_____

ITEM NO.	ITEM DESCRIPTION	UNIT	ESTIMATED QUANTITY	FINAL QUANTITY	UNIT COST	FINAL COST

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2024-39

INTRODUCED BY:

Councilor Amanda Chavez

A RESOLUTION

ACCEPTING A GRANT FROM THE LOCAL GOVERNMENT ROAD FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION AND ENTERING INTO COOPERATIVE AGREEMENT CONTROL NUMBER L500577.

WHEREAS, the City of Santa Fe ("City") and the New Mexico Department of Transportation ("NMDOT") wish to enter a cooperative grant agreement, control number L50077, under the Local Government Road Fund Program for a local road project, incorporated as Attachment A, the purpose of which is to make improvements to the Santa Fe Rail Trail intersections located at Paseo De Peralta, Second Street, West San Mateo Road, Siringo Road, and Rodeo road, and to include reconstruction and traffic signal improvements; and

WHEREAS, the NMDOT and City estimate the total cost of the project will be ninety-two thousand seven hundred thirty-seven dollars ($92,737), to be funded in proportional share by the parties hereto as follows:

1. NMDOT's share shall be seventy-five percent (75%) or sixty-nine thousand five hundred fifty-three dollars ($69,553); and.

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

2. The City's share shall be twenty-five percent (25%) or twenty-three thousand one hundred eighty-four dollars ($23,184).

WHEREAS, the agreement provides that the City shall pay all costs that exceed the total project cost of ninety-two thousand seven hundred and thirty-seven dollars ($92,737).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the fiscal year 2025 cooperative agreement, Project Control Number L500577, included as Attachment A, as part of a program administered under the Local Government Road Fund Program, for improvements to the Santa Fe Rail Trail intersections located at Paseo De Peralta, Second Street, West San Mateo Road, and Rodeo Road within the city of Santa Fe and Santa Fe County, and to include reconstruction and traffic signal improvements at these intersections, is hereby approved.

BE IT FURTHER RESOLVED that the project for the cooperative agreement is adopted and has a priority standing, as is established by Resolution No. 2022-18.

BE IT FURTHER RESOLVED that the cooperative agreement terminates on December 31, 2025, and the City incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into the written agreement.

BE IT FURTHER RESOLVED that the City Manager shall have the signature authority to bind the City to the terms and conditions of the cooperative agreement and the City's Complete Streets Capital Projects Manager has authority to request in writing and secure extensions to the Cooperative Agreement on behalf of the City in the manner set forth by the Cooperative Agreement.

PASSED, APPROVED, and ADOPTED this 25th day of September, 2024.

Alan Webber (Sep 30, 2024 17:17 MDT)

ALAN WEBBER, MAYOR

Docusign Envelope ID: CDEE0737-92AF-4858-A2B9-26593A7C953F

ATTEST:

GERALYN CARDENAS, INTERIM CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

FY 25 - RAIL TRAIL INTERSECTION IMPROVEMENTS NMDOT L500577

Final Audit Report 2025-01-27

Created:	2025-01-27
By:	Halona Crowe (hcrowe@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA24BrIQKIX6j5kzs7ZE9JL1aS5nsI9zL5

"FY 25 - RAIL TRAIL INTERSECTION IMPROVEMENTS NMDOT L500577" History

Document created by Halona Crowe (hcrowe@santafenm.gov)
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2025-01-27 - 3:17:15 PM GMT

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2025-01-27 - 4:29:12 PM GMT- IP address: 104.47.65.254

Signer rawheeler@santafenm.gov entered name at signing as Regina Wheeler
2025-01-27 - 4:30:15 PM GMT- IP address: 63.232.20.2

Document e-signed by Regina Wheeler (rawheeler@santafenm.gov)
Signature Date: 2025-01-27 - 4:30:17 PM GMT - Time Source: server- IP address: 63.232.20.2

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2025-01-27 - 4:30:22 PM GMT

Email viewed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
2025-01-27 - 4:42:54 PM GMT- IP address: 104.47.65.254

Document e-signed by ajhopkins@santafenm.gov ajhopkins@santafenm.gov (ajhopkins@santafenm.gov)
Signature Date: 2025-01-27 - 4:43:41 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2025-01-27 - 4:43:41 PM GMT

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CITY OF SANTA FE

Memorandum

Date: January 24, 2025

To: Public Works and Utilities Committee, Finance Committee and Governing B

From: Gabrielle Chavez, Transit Director of Administration

Via: Regina Wheeler, Public Works Department Director RW

RE: Resolution the Filing of Applications with the Federal Transit Administration

EXECUTIVE SUMMARY:
This resolution authorizes the City of Santa Fe's ("City") submission of applications to the Federal Transit Administration ("FTA") for federal transportation funding assistance. Upon the FTA's approval of applications, and as the FTA's identified recipient for the funding, the New Mexico Department of Transportation (NMDOT) will appropriate funding to the City for transit projects identified as eligible for the funding.

BACKGROUND:
The City receives Section 5307 funds, which is the Urbanized Area Formula Program assistance, as defined at 49 U.S.C. 5307(a)(2), and receives Urbanized Area Formula Program assistance for Public Transportation expenses on a reimbursement basis for providing safe and efficient bus service to the community and visitors.

The FTA now requires that grantees adopt and submit the Authorizing Resolution and an opinion of counsel to demonstrate eligibility to carry out FTA-funded programs and projects.

Beginning March 5, 2025, the City will be prevented from submitting new grant applications, unless current copies of the Authorizing Resolution and opinion of counsel have been submitted to FTA.

ACTION REQUESTED:
Approval of the Resolution

ATTACHMENTS:
Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Lee Garcia

A RESOLUTION

AUTHORIZING THE FILING OF APPLICATIONS TO THE FEDERAL TRANSIT ADMINISTRATION, AN OPERATING ADMINISTRATION OF THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FOR FEDERAL TRANSPORTATION ASSISTANCE AS AUTHORIZED BY 49 U.S.C. 53, TITLE 23, UNITED STATES CODE, OR OTHER FEDERAL STATUTES ADMINISTERED BY THE FEDERAL TRANSIT ADMINISTRATION.

WHEREAS, the United States Department of Transportation has delegated the authority to award federal financial assistance for transportation projects and operations to the Federal Transit Administration ("FTA"); and

WHEREAS, the City of Santa Fe ("City") is a recipient of FTA funding, and it is a prerequisite of the FTA that the City demonstrate legal capacity to carry out projects included in federal assistance awards; and

WHEREAS, to demonstrate legal capacity, FTA requires funding recipients to authorize local agents to request, receive, and spend FTA funds to administer FTA-assisted projects; and

WHEREAS, the City Attorney affirms the legal authority of the City's authorized official to

make and comply with annual certifications and assurances on behalf of the City as required by the FTA for federal grant or cooperative agreements.

WHEREAS, a grant or cooperative agreement for federal financial assistance will impose obligations upon the City, and may require the City to provide a local share of the project cost; and

WHEREAS, the New Mexico Department of Transportation, which, as defined by 49 U.S.C. 5307 (a)(2), is the FTA's designated authority to appropriate funding, has granted the City authority to apply for an allocation of funding under the Section 5307, "Urbanized Area Formula Program"; and

WHEREAS, pursuant to 49 U.S.C. 5323(n), the FTA is required to publish its annual certifications and assurances each year.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that this Resolution is the City of Santa Fe's ("City's") documentation and certification of eligibility under the law to request, receive, and spend FTA funds in order to administer FTA assisted projects; and

BE IT FURTHER RESOLVED, that the City's Transit Director of Administration or Public Works Director are authorized to execute and file applications on behalf of the City with the FTA for federal assistance authorized by 49 U.S.C. Chapter 53, title 23, United States Code, or other federal statutes authorizing a project administered by the FTA.

BE IT FURTHER RESOLVED that the Public Works Director is authorized to execute and file on behalf of the City the annual certifications and assurances, grant and cooperative agreements, and other documents the FTA requires before the FTA awards a federal assistance grant or cooperative agreement.

BE IT FURTHER RESOLVED, if matching funds are required for an FTA award, the City Manager shall work with the Transit Director of Administration and/or Public Works Director to ensure the City has budgeted the matching funds before executing agreements for the

award.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

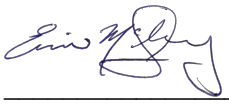
ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:



_____

ERIN K. McSHERRY, CITY ATTORNEY

FIR No. 10650

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Authorizing Filing Application to Federal Transit Administration for Federal Assistance

Sponsor(s): Councilor Lee Garcia

Reviewing Department(s): Public Works- Transit Division

Staff Completing FIR: Gabrielle Chavez **Date:** 2/5/2024 **Phone:** (505) 469-3405

Reviewed by City Attorney: _____ **Date:** Feb 14, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 14, 2025

Summary:
This resolution establishes the required authorizations for the City of Santa Fe's ("City") submission of applications, assurances and certifications, and acceptances of grant funding agreements to the Federal Transit Administration's ("FTA's") online portal for federal transportation funding assistance. Upon the FTA's application approval, and as the FTA's identified recipient for the funding, the New Mexico Department of Transportation (NMDOT) will appropriate funding to the City for transit projects identified as eligible for the funding.

Departments Affected:
Public Works Department (Transit Division)

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the ("FTA") will not award grant applications and grant funding for Transit will be paused until the requirements have been met.

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

Performance and Administrative Implications:
Approval of the Authorizing Resolution for submittal to the Federal Transit Administration will allow the City to continue to apply for and receive the City's annual FTA grant apportionments and any Competitive FTA funding available for Public Transportation expenditures.

Fiscal Implications:

The City is awarded annual FTA grant apportionments that are applied for and awarded for the purpose of public transportation expenditure reimbursements. The funding assists the City to provide safe and efficient public transportation to the community and visitors and lessens the annual operating and capital expenditures to the City.

Fiscal Impact

____X____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature:

Email: rawheeler@santafenm.gov

Signature:

Email: gnchavez@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: January 27, 2025

To: Governing Body, Public Works and Utilities Committee, and Finance Committee

From: Romella Glorioso-Moss, Complete Streets Capital Projects Manager RGM

Via: Regina Wheeler, Public Works Department Director RW

RE: C5223169 Governor Miles Road Authorized Representatives and Agents

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EXECUTIVE SUMMARY:

The Resolution designates authorized representatives and agents for an agreement with New Mexico Department of Finance and Administration (DFA), regarding appropriation ID Number G3169 and New Mexico Department of Transportation (NMDOT) Control Number C5223169 ("Grant Agreement"). The Grant Agreement makes available three hundred thousand dollars ($300,000), appropriated by the New Mexico State Legislature for a project to acquire easements and rights of way for and to plan, design, and construct and repair Governor Miles Road from Richards Avenue to Nizhoni Drive in the city of Santa Fe in Santa Fe County.

BACKGROUND:

The New Mexico Department of Transportation, through Article X.B. (v) of the Grant Agreement, requires that the City of Santa Fe as the grantee, to agree that the "governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment". Adoption of this Resolution will satisfy this requirement and allow the City to enter into the Grant Agreement. The Grant Agreement will be presented to the Governing Body in an action separate from this Resolution; and this Resolution will not be implicated if the Governing Body does not later approve the grant agreement.

ATTACHMENTS:

Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Amanda Chavez

A RESOLUTION

AUTHORIZING REPRESENTATIVES AND AGENTS FOR AN AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION REGARDING APPROPRIATION ID NUMBER G3169, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5223169, TO ACQUIRE EASEMENTS AND RIGHTS OF WAY FOR AND TO PLAN, DESIGN, CONSTRUCT, AND REPAIR GOVERNOR MILES ROAD FROM RICHARDS AVENUE TO NIZHONI DRIVE.

WHEREAS, in the Laws of 2022, Chapter 53, Section 36, Subsection 87, the New Mexico Legislature made an appropriation to the New Mexico Department of Transportation ("NMDOT"), for funds from which NMDOT is making available to the City of Santa Fe ("Grantee" or "City") through the New Mexico Department of Finance and Administration Appropriation Number G3169, NMDOT Control Number C5223169 ("Agreement"), incorporated as Attachment A, in the amount of three hundred thousand ($300,000), to acquire easements and rights of way and to plan, design, construct and repair Governor Miles Road from Richards Avenue to Nizhoni Drive in the

city of Santa Fe in Santa Fe County (the "Project"); and

WHEREAS, Article X. B. (v) of the Agreement, states that "the Grantee's governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment" and adopting this resolution will satisfy this requirement; and

WHEREAS, in a letter dated August 24, 2023, the New Mexico Department of Finance and Administration ("DFA") took the position that it required the City to initiate a fiscal agent relationship in order for the City to utilize its current State Capital appropriations, and this position was renewed in a letter dated August 20, 2024, for all current Capital outlay appropriations; and

WHEREAS, as a result of DFA's position, the City entered into a governmental services agreement, incorporated as Attachment B, with North Central Economic Development District ("NCEDD") for fiscal agent services, in which NCEDD agreed to review and sign Requests for Payment for permissible expenditures, on December 19, 2023; and

WHEREAS, Amendment No. 1 to the Intergovernmental Service Agreement, Item No. 22-G3169, included in Attachment B, includes the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the following provisions shall apply to the Agreement:

A. The person listed below, or their successor, is the Grantee's official representative authorized to sign the Agreement:

Grantee:	City of Santa Fe
Name:	Alan Webber
Title:	Mayor
Address:	PO Box 909
	Santa Fe, NM 87504-0909
Email:	mayor@santafenm.gov

Telephone: (505) 955-6590

B. The person listed below, or their successor, is the Grantee's Fiscal Officer of Fiscal Agent concerning reviewing and signing Requests for Payments for permissible expenditures:

Grantee: City of Santa Fe

Name: Felicity Fonseca

Title: Community Development Director, North Central New Mexico Economic Development District

Address: 644 Don Gaspar Ave.
Santa Fe, Nm 87505

Email: felicityf@ncnmedd.com

Telephone: (505) 356-9098

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/C5223165 Medians Phase I Designating Authorized Representatives and Agents

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ATTACHMENT A

Contract Number: _____
Vendor Number: 0000054360
Control Number: C5223169

STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 89200 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is between the Department of Transportation, hereinafter called the "Department" or abbreviation such as "NMDOT", and City of Santa Fe, hereinafter called the "Grantee". This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2022, SB212, Chapter 53, Section 36, Subsection 87, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID G3169 NMDOT Control Number C5223169 **$300,000**
APPROPRIATION REVERSION DATE: 6/30/2026
Laws of 2022, Chapter 53, Section 36, Subsection 87, Three Hundred Thousand Dollars and No Cents ($300,000), to acquire easements and rights of way and to plan, design, construct and repair Governor Miles road from Richards avenue to Nizhoni drive in Santa Fe in Santa Fe county .

The Grantee's total reimbursements shall not exceed Three Hundred Thousand Dollars and No Cents $300,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")[1], if

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.

applicable, Zero Dollars and No Cents ($ 0.00), which equals Three Hundred Thousand Dollars and No Cents (**$300,000**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
   a. must be approved by the applicable oversight entity (if any) in accordance with law; or
   b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Santa Fe

Name: David Chapman
Title: Grants Administrator
Address: P.O. Box 909, Santa Fe, New Mexico 87504
Email: dachapman@ci.santa-fe.nm.us
Telephone: 505-955-2012

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 5 Office
Name: Amanda Nino
Title: Capital Outlay District Coordinator
Address: P.O. Box 4127, Santa Fe, NM 87502
Email: Amanda.Nino@dot.nm.gov
Telephone: 505-660-6357

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2026 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date

particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii) Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

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(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

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During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was ~~a~~pproved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) Twenty (20) days from date of Early Termination; or

(iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in

Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the

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subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the

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requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

_____
Signature of Official with Authority to Bind Grantee

_____
Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

_____
Date

DEPARTMENT OF TRANSPORTATION

_____
By:

Its: Cabinet Secretary or Designee

_____
Date

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

DocuSigned by:
Sundeepet Kaur
CBDDF719FE734A2...
By: Aaron Frankland or Designee

Its: Deputy General Counsel

04/22/24
Date

IN WITNESS WHEREOF, the parties have executed this Capital Appropriation Project as of the dates set forth below.

CITY OF SANTA FE:

SEE ABOVE

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

GERALYN CARDENAS, INTERIM CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Jun 14, 2024 09:33 MDT)

_____

SENIOR ASSISTANT CITY ATTORNEY

FINANCE DIRECTOR:

_____

EMILY OSTER

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STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____

B. Address: _____

(Complete Mailing, including Suite, if applicable)

_____

City _____ State _____ Zip _____

C. Phone No: _____

D. Grant No: _____

E. Project Title: _____

F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____

B. Grant Amount: _____

C. AIPP Amount *(If Applicable)*: _____

D. Funds Requested to Date: _____

E. Amount Requested this Payment: _____

F. Reversion Amount (If *Applicable*): _____

G. Grant Balance: _____

H. ☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)

I. ☐ Final Request for Payment (*if Applicable*)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (*if applicable*)

Printed Name

Date: _____

Grantee Representative

Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ **Fund No.:** _____ **Loc No.:** _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer Date

Division Project Manager Date

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NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____,_____]
FROM: Grantee: [_____]
Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee
Grant Number: [_____]
Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): [_____]
The Amount of this Notice of Obligation: [_____]
The Total Amount of all Previously Issued Notices of Obligation: [_____]
The Total Amount of all Notices of Obligation to Date: [_____]
Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]
Title: [_____]
Signature: [_____]
Date: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

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NMDOT ATTACHEMNT A

The City of Santa Fe shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Santa Fe shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.

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1.

INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN CITY OF SANTA FE AND
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
FOR FISCAL AGENT SERVICES

WHEREAS, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe ("City") to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below ("Projects");

WHEREAS, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

WHEREAS, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District ("NCNMEDD") in providing fiscal agency services in relation to the Projects.

NOW, THEREFORE, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

A. PURPOSE

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
F2903	2021	SANTA FE MIDTOWN INFRA DES CONSTRUCT	2021	138	29/344	341	Finance & Administration	1,000,000	to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;
F2899	2021	SANTA FE HOMEBOUND MEALS PROGRAM IMPROVE	2021	138	29/340	341	Finance & Administration	250,000	to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;
F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

B. SCOPE OF WORK

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.

2. City Role and Responsibilities
   - City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

C. TIMEFRAME

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

D. COMPENSATION:

NCNMEDD has agreed to provide the agreed upon services at three percent (3%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

E. RECORDS AND RECOVERY:

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

F. ACCESS TO INFORMATION

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

G. OWNERSHIP OF PROJECTS

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

H. LIMITATION OF LIABILITY

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

I. MODIFICATION AND TERMINATION

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

J. CERTIFICATION

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

K. ADEQUATE APPROPRIATIONS

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

L. PENALTIES

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

M. 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: City
City Manager John Blair
City of Santa Fe
200 Lincoln
Santa Fe, New Mexico, 87501j

To NCNMEDD:
Monica Abeita Executive Director NCNMEDD
3900 Paseo del Sol
Santa Fe, NM 87507

N. DISPUTE RESOLUTION

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

O. BREACH AND DEFAULT

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

P. ASSIGNMENT

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 19th DAY OF December, 2023, BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

Monica Abeita, Executive Director Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Dec 19, 2023

ATTEST:

Geralyn Cardenas (Dec 19, 2023 14:06 MST)

GERALYN CARDENAS, INTERIM CITY CLERK XIV

GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry

Erin McSherry (Dec 8, 2023 13:36 MST)

ERIN MCSHERRY, CITY ATTORNEY

Item #24-0132

Munis Contract#_____
Original Contract Item#___23-0688____
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE
AMENDMENT No. 1 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 1 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional twenty-two (22) Capital appropriations as seen on Exhibit A.

2. COMPENSATION:

Article D, of the Agreement is amended in its entirety as follows:

NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from these Capital appropriations to make such payments.

3. CONTRACT 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 (Mar 14, 2024 10:01 MDT)

ALAN WEBBER, MAYOR

DATE: Mar 14, 2024

NCNMEDD

Monica Abeita

MONICA ABEITA
EXECUTIVE DIRECTOR

Executive Director
TITLE

DATE: Feb. 20. 2024

ATTEST:

Geralyn Cardenas (Mar 14, 2024 11:32 MDT)

GERALYN CARDENAS, INTERIM CITY CLERK
GB MTG 03/13/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Feb 16, 2024 13:08 MST)

SENIOR ASSISTANT CITY ATTORNEY

EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Agency	Bond Series
22-G2419	2022	Jemez Road Construction	$ 400,000	6/30/2026	NMED	STB23SC
22-G3010	2022	SF Fire Fleet Equip / Upgrade Improv	$ 120,000	6/30/2026	DFA	STB23SC
22-G3012	2022	Harrison Rd Improve Construct	$ 100,000	6/30/2026	DFA	STB23SC
22-G3016	2022	Homebound Meals Program Improve	$ 200,000	6/30/2026	DFA	STB23SC
22-G3017	2022	Midtown Property Infra Improve	$ 1,100,000	6/30/2026	DFA	STB23SC
22-G3018	2022	SWAN Park Phase 2 Construct	$ 380,000	6/30/2026	DFA	STB23SC
22-G3019	2022	Tierra Contenta Trail Improve	$ 300,000	6/30/2026	DFA	STB23SC
22-G3165	2022	Median Beautify Phase 1 Design	$ 1,170,000	6/30/2026	DOT	STB23SC
22-G3169	2022	Governor Miles Rd. Construct	$ 300,000	6/30/2026	DOT	STB23SC
22-G3170	2022	Pacheco Street Improve	$ 150,000	6/30/2026	DOT	STB23SC
G22-5353	2022	Mary Esther Gonzales Senior Ctr- Equip	$ 235,630	6/30/2026	ALTSD	STB22SC- GO Bonds
G22-5354	2022	Pasatiemo Senior Ctr- Equip	$ 65,805	6/30/2026	ALTSD	STB22SC- GO Bonds
23-H3200	2023	Santa Fe Building Upgrade	$ 210,000	6/30/2027	DFA	General Fund
23-H3201	2023	SF Fire Station #2 Construction	$ 3,995,000	6/30/2027	DFA	General Fund
23-H3202	2023	SF Homebound Meals Faculty Ren	$ 200,000	6/30/2027	DFA	General Fund
23-H3203	2023	SF Midtown Infa. Improvement	$ 4,900,000	6/30/2027	DFA	General Fund
23-H3204	2023	SF Muni Rec Sports Cmplx Field Const.	$ 50,000	6/30/2027	DFA	General Fund
23-H3205	2023	SF Pickleball Cmplx Ft. Marcy Constr.	$ 650,000	6/30/2027	DFA	General Fund
23-H3206	2023	SF SWAN Park Phase 2 Improvement	$ 2,400,000	6/30/2027	DFA	General Fund
23-H3207	2023	SF Water History Park Improvement	$ 350,000	6/30/2027	DFA	General Fund
23-H3359	2023	Governor Miles Road Improvement	$ 210,000	6/30/2027	DOT	General Fund
23-H3360	2023	Pacheco Street Improvement	$ 350,000	6/30/2027	DOT	General Fund

Munis Contract#_____
Original Contract Item#___23-0688_____
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE
AMENDMENT No. 2 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 2 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional three (3) capital appropriations as seen on Exhibit B.

2. CONTRACT 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 (Apr 11, 2024 21:17 MDT)

ALAN WEBBER, MAYOR

DATE: Apr 11, 2024

CONTRACTOR:
NCNMEDD

Monica Abeita

MONICA ABEITA
EXECUTIVE DIRECTOR

Executive Director
TITLE

April 2, 2024

DATE:

ATTEST:

GERALYN CARDENAS (Apr 12, 2024 09:03 MDT)

GERALYN CARDENAS, INTERIM CITY CLERK

GB MTG 04/10/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Apr 4, 2024 09:38 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

EXHIBIT B

23-ZH9[illegible]98	for Santa Fe to purchase security cameras and security systems at municipal parks	$	95,000.00
23-ZH9900	to purchase equipment and to provide arson investigation training to fire department three in Santa Fe	$	125,000.00
23-ZH9901	for sanitization and deep cleaning of all municipal swimming pools in Santa Fe	$	75,000.00

Original Contract Item# 23-0688
SWPA/GSA/Coop/RFP/ITB #: N/A

CITY OF SANTA FE
AMENDMENT No. 3 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 3 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add twenty-two (22) capital appropriations as seen on Exhibit A.

2. CONTRACT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No.3 to the Agreement as of the dates set forth below.

CITY OF SANTA FE:

Alan Webber (Nov 15, 2024 09:56 MST)

ALAN WEBBER, MAYOR

DATE: Nov 15, 2024

CONTRACTOR:
NCNMEDD

Monica Abeita
Monica Abeita (Oct 11, 2024 13:22 MDT)

MONICA ABEITA
EXECUTIVE DIRECTOR

DATE: Oct 11, 2024

ATTEST:

Andrea Salazar
Andrea Salazar (Nov 15, 2024 11:02 MST)

ANDREA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Oct 11, 2024 13:26 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Funding Agency	Funding Source
I2455	2024	Paseo Real Wastewater Facility	$1,600,000	30-Jun-28	NMED	General Fund
I2457	2024	Jemez Rd Sewer	$210,000	30-Jun-28	NMED	General Fund
I2458	2024	Vereda de Velencia WWater	$160,000	30-Jun-2028	NMED	General Fund
I3023	2024	Police Dept. Equipment Purchase	$250,000	30-Jun-2026	DFA	General Fund
I3134	2024	Fire Stn 2 Construct	$250,000	30-Jun-2028	DFA	General Fund
I3136	2024	Soccer Valley MRC Construct	$3,425,000	30-Jun-2028	DFA	General Fund
I3138	2024	Los Prados Park	$438,000	30-Jun-2028	DFA	General Fund
I3141	2024	Fire SCBA Equip Purchase	$250,000	30-Jun-2026	DFA	General Fund
I3142	2024	Ft Marcy Park Ren	$5,000,000	30-Jun-2028	DFA	General Fund
I3143	2024	Permanent and Transitional Housing	$400,000	30-Jun-2028	DFA	General Fund
I3144	2024	Railyard Bldg. Upgrade	$100,000	30-Jun-2028	DFA	General Fund
I3145	2024	Railyard Multipurpose Bldg	$175,000	30-Jun-2028	DFA	General Fund
I3146	2024	Regional Airport Phase 2 Improve	$2,000,000	30-Jun-2028	DFA	General Fund
I3147	2024	River Park Pedestrian Bridge	$240,000	30-Jun-2028	DFA	General Fund
I3318	2024	NM599-Airport Access Road	$4,500,000	30-Jun-2028	NMDOT	General Fund
I3319	2024	Rufina St. & Lopez Lane Intersection	$50,000	30-Jun-2028	NMDOT	General Fund
I3320	2024	Paseo del Sol Extension	$50,000	30-Jun-2028	NMDOT	General Fund
I3321	2024	St. Michael's Rail Trail Underpass	$100,000	30-Jun-2028	NMDOT	General Fund
I4219	2024	El Museo Improvements	$126,950	30-Jun-2026	DFA	Severance Tax Bond
I4220	2024	Homebound Meals	$100,000	30-Jun-2028	DFA	General Fund
I4221	2024	Municipal Court Renovations	$29,843	30-Jun-2028	DFA	General Fund
I4222	2024	Supportive Housing	$844,470	30-Jun-2026	DFA	General Fund

FIR No. 10648.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Authorized Representatives and Agents for DFA Appropriation ID Number G3169, NMDOT Control Number C5223169

Sponsor(s): Councilor Amanda Chavez

Reviewing Department(s): Public Works Department

Staff Completing FIR: Regina Wheeler, Public Works Director **Date:** 1/26/2025 **Phone:** (505) 690-4197

Reviewed by City Attorney: _____ **Date:** Feb 7, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 7, 2025

Summary:
The Resolution designates authorized representatives and agents for an agreement with New Mexico Department of Finance and Administration (DFA) about appropriation ID Number G3169, New Mexico Department of Transportation (NMDOT) Control Number C5223169 ("Grant Agreement"). The Grant Agreement makes available three hundred thousand dollars ($300,000), appropriated by the New Mexico Legislature, for a project to acquire easements and rights of way and to plan, design, construct and repair Governor Miles Road from Richards Avenue to Nizhoni Drive in the city of Santa Fe in Santa Fe County.

Departments Affected:
Public Works Department.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City of Santa Fe ("City") will not satisfy Article X. B. (v) of the Grant Agreement, which requires the Governing Body to adopt a resolution authorizing the person identified as the official representative of the City to sign the Grant Agreement and to sign Requests for Payment. Additionally, without the adoption of this Resolution the City would not receive NMDOT's funding in the amount of three hundred thousand dollars ($300,000).

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
The Governing Body will be approving the agreement through a separate action.

Performance and Administrative Implications:
Public Works Department staff will acquire easements and rights of way for and to plan, design, and construct and repair Governor Miles Road from Richards Avenue to Nizhoni Drive for the city of Santa Fe in Santa Fe County in association with this Grant Agreement. Public Works staff and Finance Department staff will also administer the grant.

Fiscal Implications:

**Although there is not a fiscal impact for authorizing and naming agents, it is worth pointing out that Amendment No. 1 to the Intergovernmental Agreement states that "NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects". If the City expends the total agreement amount of three hundred thousand dollars ($300,000), then NCNMEDD will receive three thousand dollars ($3,000) as one percent (1%) of the expense. The City will pay the 1% from City funds separate from the grant funds. The Governing Body will approve the agreement through a separate action and will budget funds for fiscal agent fees in a separate action.

Fiscal Impact

____X____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:
**See "Fiscal Implications" narrative above.

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: Regina Wheeler (Feb 7, 2025 16:16 MST)

Email: rawheeler@santafenm.gov

Signature: ROMELLA GLORIOSO-MOSS

Email: rsglorioso-moss@santafenm.gov

CITY OF SANTA FE, NEW MEXICO
CO-SPONSOR(S) TO RESOLUTION NO. 2025-__
C5223169 ($300,000) Governor Miles Road Authorized Representatives and Agents

The following members of the Governing Body joined sponsorship of this legislation:

Jamie Cassutt (Feb 10, 2025 21:15 MST)

Jamie Cassutt, Councilor

2/10/2025
Date

10648.0

Co-Sponsorship - Cassutt

Final Audit Report 2025-02-11

Created:	2025-02-10
By:	CHRISTINE SPIERS (cmspiers@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-_MdeFX7UK4cs1sVz8sGMcnbOGQuaVvf

"Co-Sponsorship - Cassutt" History

Document created by CHRISTINE SPIERS (cmspiers@santafenm.gov)
2025-02-10 - 6:27:11 PM GMT- IP address: 63.232.20.2

Document emailed to jcassutt@santafenm.gov for signature
2025-02-10 - 6:27:42 PM GMT

Email viewed by jcassutt@santafenm.gov
2025-02-11 - 4:14:39 AM GMT- IP address: 73.242.171.128

Signer jcassutt@santafenm.gov entered name at signing as Jamie Cassutt
2025-02-11 - 4:15:08 AM GMT- IP address: 73.242.171.128

Document e-signed by Jamie Cassutt (jcassutt@santafenm.gov)
Signature Date: 2025-02-11 - 4:15:10 AM GMT - Time Source: server- IP address: 73.242.171.128

Agreement completed.
2025-02-11 - 4:15:10 AM GMT

Powered by Adobe Acrobat Sign

CITY OF SANTA FE

Memorandum

Date: January 28th, 2025

To: Governing Body, Public Works and Utilities Committee, Finance Committee

From: Romella Glorioso-Moss, Complete Streets Capital Projects Manager RGM

Via: Regina Wheeler, Public Works Department Director RW

RE: C5223170 Pacheco Street Improve Authorized Representatives and Agents

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EXECUTIVE SUMMARY:

The Resolution designates authorized representatives and agents for New Mexico Department of Finance and Administration (DFA), appropriation ID Number G3170 and New Mexico Department of Transportation (NMDOT) Control Number C5223170 ("Grant Agreement"). The Grant Agreement makes available one hundred and fifty thousand dollars ($150,000), appropriated by the New Mexico State Legislature for a project to acquire easements and rights of way and to plan, design, construct and improve Pacheco street, including pedestrian and bicycle improvements, between West San Mateo Road and Alta Vista Street in the city of Santa Fe in Santa Fe County.

BACKGROUND:

The New Mexico Department of Transportation, through Article X.B. (v) of the Grant Agreement, requires that the City of Santa Fe as the grantee, to agree that the "governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment". Adoption of this Resolution will satisfy this requirement and allow the City to enter into the Grant Agreement. The Grant Agreement will be presented to the Governing Body in an action separate from this Resolution; and this Resolution will not be implicated if the Governing Body does not later approve the grant agreement.

ATTACHMENTS:

Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Amanda Chavez

A RESOLUTION

AUTHORIZING REPRESENTATIVES AND AGENTS FOR AN AGREEMENT WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, REGARDING APPROPRIATION ID NUMBER G3170, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5223170, TO ACQUIRE EASEMENTS AND RIGHTS OF WAY FOR AND TO PLAN, DESIGN, CONSTRUCT AND IMPROVE PACHECO STREET, INCLUDING PEDESTRIAN AND BICYCLE IMPROVEMENTS BETWEEN WEST SAN MATEO ROAD AND ALTA VISTA STREET.

WHEREAS, in the Laws of 2022, Chapter 53, Section 36, Subsection 88, the New Mexico Legislature made an appropriation to the New Mexico Department of Transportation ("NMDOT"), for funds from which NMDOT is making available to the City of Santa Fe ("Grantee" or "City") through the New Mexico Department of Finance and Administration Appropriation Number G3170, NMDOT Control Number C5223170 ("Agreement"), incorporated as Attachment A, in the amount of one hundred and fifty thousand ($150,000), to acquire easements and rights of way and

to plan, design, construct and improve Pacheco street, including pedestrian and bicycle improvements, between West San Mateo Road and Alta Vista Street in the city of Santa Fe in Santa Fe County ("the Project"); and

WHEREAS, Article X. B. (v) of the Agreement, states that "the Grantee's governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment" and adopting this resolution will satisfy this requirement; and

WHEREAS, in a letter dated August 24, 2023, the New Mexico Department of Finance and Administration ("DFA") took the position that it required the City to initiate a fiscal agent relationship in order for the City to utilize its current State Capital appropriations and, this position was renewed in a letter dated August 20, 2024 for all current Capital outlay appropriations; and

WHEREAS, as a result of DFA's position articulated in these letters, the City entered into a governmental services agreement, incorporated as Attachment B, with North Central Economic Development District ("NCEDD") for fiscal agent services, in which NCEDD agreed to review and sign Requests for Payment for permissible expenditures, on December 19, 2023; and

WHEREAS, the terms of Amendment No. 1 to the Intergovernmental Service Agreement, Item No. 22-G3170, included in Attachment B, includes the project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the following provisions shall apply to the Agreement:

A. The person listed below, or their successor, is the Grantee's official representative authorized to sign the Agreement:

Grantee: City of Santa Fe

Name: Alan Webber

Title: Mayor

Address: PO Box 909

Santa Fe, NM 87504-0909

Email: mayor@santafenm.gov

Telephone: (505) 955-6590

B. The person listed below, or their successor, is the Grantee's Fiscal Officer of Fiscal Agent concerning reviewing and signing Requests for Payments for permissible expenditures:

Grantee: City of Santa Fe

Name: Felicity Fonseca

Title: Community Development Director, North Central New Mexico Economic Development District

Address: 644 Don Gaspar Ave.

Santa Fe, Nm 87505

Email: felicityf@ncnmedd.com

Telephone: (505) 356-9098

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/ C5223170 Pacheco Street Improve Designating Authorized Representatives

DocuSign Envelope ID: 05B69AF9-3198-4665-B726-0A173BC4E34C

ATTACHMENT A

Contract Number: _____
Vendor Number: 0000054360
Control Number: C5223170

STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 89200 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is between the Department of Transportation, hereinafter called the "Department" or abbreviation such as "NMDOT", and City of Santa Fe, hereinafter called the "Grantee". This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2022, SB212, Chapter 53, Section 36, Subsection 88, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID G3170 NMDOT Control Number C5223170 **$150,000**
APPROPRIATION REVERSION DATE: 6/30/2026
Laws of 2022, Chapter 53, Section 36, Subsection 88, One Hundred Fifty Thousand Dollars and No Cents ($150,000), to acquire easements and rights of way and to plan, design, construct and improve Pacheco street, including pedestrian and bicycle improvements, between west San Mateo road and Alta Vista street in Santa Fe in Santa Fe county .

The Grantee's total reimbursements shall not exceed One Hundred Fifty Thousand Dollars and No Cents $150,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")[1], if

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.

applicable, Zero Dollars and No Cents ($ 0.00), which equals One Hundred Fifty Thousand Dollars and No Cents (**$150,000**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
   a. must be approved by the applicable oversight entity (if any) in accordance with law; or
   b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Santa Fe

Name: David Chapman
Title: Grants Administrator
Address: P.O. Box 909, Santa Fe, New Mexico 87504
Email: dachapman@ci.santa-fe.nm.us
Telephone: 505-955-2012

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 5 Office
Name: Amanda Nino
Title: Capital Outlay District Coordinator
Address: P.O. Box 4127, Santa Fe, NM 87502
Email: Amanda.Nino@dot.nm.gov
Telephone: 505-660-6357

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2026 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date

particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii) Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

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During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was ~~a~~pproved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) Twenty (20) days from date of Early Termination; or

(iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in

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Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the

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subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the

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requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

_____
Signature of Official with Authority to Bind Grantee

_____
Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

_____
Date

DEPARTMENT OF TRANSPORTATION

_____
By:

Its: Cabinet Secretary or Designee

_____
Date

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

DocuSigned by:
Sundeepet kaur
C8DDF719FE734A2...
By: Aaron Frankland or Designee

Its: Deputy General Counsel

04/22/24
Date

IN WITNESS WHEREOF, the parties have executed this Capital Appropriation Project as of the dates set forth below.

CITY OF SANTA FE:

SEE ABOVE

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

GERALYN CARDENAS, INTERIM CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Jun 14, 2024 09:08 MDT)

_____

SENIOR ASSISTANT CITY ATTORNEY

FINANCE DIRECTOR:

_____

EMILY OSTER

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STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____

B. Address: _____

(Complete Mailing, including Suite, if applicable)

_____

City _____ State _____ Zip _____

C. Phone No: _____

D. Grant No: _____

E. Project Title: _____

F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____

B. Grant Amount: _____

C. AIPP Amount *(If Applicable)*: _____

D. Funds Requested to Date: _____

E. Amount Requested this Payment: _____

F. Reversion Amount (If *Applicable*): _____

G. Grant Balance: _____

H. ☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)

I. ☐ Final Request for Payment (*if Applicable*)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (*if applicable*)

Printed Name

Date: _____

Grantee Representative

Printed Name

Date: _____

(State Agency Use Only)

Vendor Code: _____ **Fund No.:** _____ **Loc No.:** _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer Date

Division Project Manager Date

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NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____,_____]
FROM: Grantee: [_____]
Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee
Grant Number: [_____]
Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): [_____]
The Amount of this Notice of Obligation: [_____]
The Total Amount of all Previously Issued Notices of Obligation: [_____]
The Total Amount of all Notices of Obligation to Date: [_____]
Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]
Title: [_____]
Signature: [_____]
Date: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

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NMDOT ATTACHEMNT A

The City of Santa Fe shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Santa Fe shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.

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1.

INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN CITY OF SANTA FE AND
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
FOR FISCAL AGENT SERVICES

WHEREAS, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe ("City") to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below ("Projects");

WHEREAS, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

WHEREAS, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District ("NCNMEDD") in providing fiscal agency services in relation to the Projects.

NOW, THEREFORE, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

A. PURPOSE

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
F2903	2021	SANTA FE MIDTOWN INFRA DES CONSTRUCT	2021	138	29/344	341	Finance & Administration	1,000,000	to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;
F2899	2021	SANTA FE HOMEBOUND MEALS PROGRAM IMPROVE	2021	138	29/340	341	Finance & Administration	250,000	to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;
F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

B. SCOPE OF WORK

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.

2. City Role and Responsibilities
   - City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

C. TIMEFRAME

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

D. COMPENSATION:

NCNMEDD has agreed to provide the agreed upon services at three percent (3%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

E. RECORDS AND RECOVERY:

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

F. ACCESS TO INFORMATION

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

G. OWNERSHIP OF PROJECTS

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

H. LIMITATION OF LIABILITY

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

I. MODIFICATION AND TERMINATION

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

J. CERTIFICATION

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

K. ADEQUATE APPROPRIATIONS

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

L. PENALTIES

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

M. 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: City
City Manager John Blair
City of Santa Fe
200 Lincoln
Santa Fe, New Mexico, 87501j

To NCNMEDD:
Monica Abeita Executive Director NCNMEDD
3900 Paseo del Sol
Santa Fe, NM 87507

N. DISPUTE RESOLUTION

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

O. BREACH AND DEFAULT

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

P. ASSIGNMENT

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 19th DAY OF December, 2023, BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

Monica Abeita, Executive Director Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Dec 19, 2023

ATTEST:

Geralyn Cardenas (Dec 19, 2023 14:06 MST)

GERALYN CARDENAS, INTERIM CITY CLERK XIV

GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry

Erin McSherry (Dec 8, 2023 13:36 MST)

ERIN MCSHERRY, CITY ATTORNEY

Item #24-0132

Munis Contract#_____
Original Contract Item#___23-0688____
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE
AMENDMENT No. 1 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 1 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional twenty-two (22) Capital appropriations as seen on Exhibit A.

2. COMPENSATION:

Article D, of the Agreement is amended in its entirety as follows:

NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from these Capital appropriations to make such payments.

3. CONTRACT 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 (Mar 14, 2024 10:01 MDT)

ALAN WEBBER, MAYOR

DATE: Mar 14, 2024

NCNMEDD

Monica Abeita

MONICA ABEITA
EXECUTIVE DIRECTOR

Executive Director
TITLE

DATE: Feb. 20. 2024

ATTEST:

Geralyn Cardenas (Mar 14, 2024 11:32 MDT)

GERALYN CARDENAS, INTERIM CITY CLERK
GB MTG 03/13/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Feb 16, 2024 13:08 MST)

SENIOR ASSISTANT CITY ATTORNEY

EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Agency	Bond Series
22-G2419	2022	Jemez Road Construction	$ 400,000	6/30/2026	NMED	STB23SC
22-G3010	2022	SF Fire Fleet Equip / Upgrade Improv	$ 120,000	6/30/2026	DFA	STB23SC
22-G3012	2022	Harrison Rd Improve Construct	$ 100,000	6/30/2026	DFA	STB23SC
22-G3016	2022	Homebound Meals Program Improve	$ 200,000	6/30/2026	DFA	STB23SC
22-G3017	2022	Midtown Property Infra Improve	$ 1,100,000	6/30/2026	DFA	STB23SC
22-G3018	2022	SWAN Park Phase 2 Construct	$ 380,000	6/30/2026	DFA	STB23SC
22-G3019	2022	Tierra Contenta Trail Improve	$ 300,000	6/30/2026	DFA	STB23SC
22-G3165	2022	Median Beautify Phase 1 Design	$ 1,170,000	6/30/2026	DOT	STB23SC
22-G3169	2022	Governor Miles Rd. Construct	$ 300,000	6/30/2026	DOT	STB23SC
22-G3170	2022	Pacheco Street Improve	$ 150,000	6/30/2026	DOT	STB23SC
G22-5353	2022	Mary Esther Gonzales Senior Ctr- Equip	$ 235,630	6/30/2026	ALTSD	STB22SC- GO Bonds
G22-5354	2022	Pasatiemo Senior Ctr- Equip	$ 65,805	6/30/2026	ALTSD	STB22SC- GO Bonds
23-H3200	2023	Santa Fe Building Upgrade	$ 210,000	6/30/2027	DFA	General Fund
23-H3201	2023	SF Fire Station #2 Construction	$ 3,995,000	6/30/2027	DFA	General Fund
23-H3202	2023	SF Homebound Meals Faculty Ren	$ 200,000	6/30/2027	DFA	General Fund
23-H3203	2023	SF Midtown Infa. Improvement	$ 4,900,000	6/30/2027	DFA	General Fund
23-H3204	2023	SF Muni Rec Sports Cmplx Field Const.	$ 50,000	6/30/2027	DFA	General Fund
23-H3205	2023	SF Pickleball Cmplx Ft. Marcy Constr.	$ 650,000	6/30/2027	DFA	General Fund
23-H3206	2023	SF SWAN Park Phase 2 Improvement	$ 2,400,000	6/30/2027	DFA	General Fund
23-H3207	2023	SF Water History Park Improvement	$ 350,000	6/30/2027	DFA	General Fund
23-H3359	2023	Governor Miles Road Improvement	$ 210,000	6/30/2027	DOT	General Fund
23-H3360	2023	Pacheco Street Improvement	$ 350,000	6/30/2027	DOT	General Fund

Munis Contract#_____
Original Contract Item#___23-0688_____
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE
AMENDMENT No. 2 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 2 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional three (3) capital appropriations as seen on Exhibit B.

2. CONTRACT 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 (Apr 11, 2024 21:17 MDT)

ALAN WEBBER, MAYOR

DATE: Apr 11, 2024

CONTRACTOR:
NCNMEDD

Monica Abeita

MONICA ABEITA
EXECUTIVE DIRECTOR

Executive Director
TITLE

April 2, 2024

DATE:

ATTEST:

GERALYN CARDENAS (Apr 12, 2024 09:03 MDT)

GERALYN CARDENAS, INTERIM CITY CLERK

GB MTG 04/10/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Apr 4, 2024 09:38 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

EXHIBIT B

23-ZH9298	for Santa Fe to purchase security cameras and security systems at municipal parks	$	95,000.00
23-ZH9300	to purchase equipment and to provide arson investigation training to fire department three in Santa Fe	$	125,000.00
23-ZH9401	for sanitization and deep cleaning of all municipal swimming pools in Santa Fe	$	75,000.00

Original Contract Item# 23-0688
SWPA/GSA/Coop/RFP/ITB #: N/A

CITY OF SANTA FE
AMENDMENT No. 3 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 3 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add twenty-two (22) capital appropriations as seen on Exhibit A.

2. CONTRACT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No.3 to the Agreement as of the dates set forth below.

CITY OF SANTA FE:

Alan Webber (Nov 15, 2024 09:56 MST)

ALAN WEBBER, MAYOR

DATE: Nov 15, 2024

CONTRACTOR:
NCNMEDD

Monica Abeita
Monica Abeita (Oct 11, 2024 13:22 MDT)

MONICA ABEITA
EXECUTIVE DIRECTOR

DATE: Oct 11, 2024

ATTEST:

Andrea Salazar
Andrea Salazar (Nov 15, 2024 11:02 MST)

ANDREA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Oct 11, 2024 13:26 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

FINANCE DIRECTOR

EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Funding Agency	Funding Source
I2455	2024	Paseo Real Wastewater Facility	$1,600,000	30-Jun-28	NMED	General Fund
I2457	2024	Jemez Rd Sewer	$210,000	30-Jun-28	NMED	General Fund
I2458	2024	Vereda de Velencia WWater	$160,000	30-Jun-2028	NMED	General Fund
I3023	2024	Police Dept. Equipment Purchase	$250,000	30-Jun-2026	DFA	General Fund
I3134	2024	Fire Stn 2 Construct	$250,000	30-Jun-2028	DFA	General Fund
I3136	2024	Soccer Valley MRC Construct	$3,425,000	30-Jun-2028	DFA	General Fund
I3138	2024	Los Prados Park	$438,000	30-Jun-2028	DFA	General Fund
I3141	2024	Fire SCBA Equip Purchase	$250,000	30-Jun-2026	DFA	General Fund
I3142	2024	Ft Marcy Park Ren	$5,000,000	30-Jun-2028	DFA	General Fund
I3143	2024	Permanent and Transitional Housing	$400,000	30-Jun-2028	DFA	General Fund
I3144	2024	Railyard Bldg. Upgrade	$100,000	30-Jun-2028	DFA	General Fund
I3145	2024	Railyard Multipurpose Bldg	$175,000	30-Jun-2028	DFA	General Fund
I3146	2024	Regional Airport Phase 2 Improve	$2,000,000	30-Jun-2028	DFA	General Fund
I3147	2024	River Park Pedestrian Bridge	$240,000	30-Jun-2028	DFA	General Fund
I3318	2024	NM599-Airport Access Road	$4,500,000	30-Jun-2028	NMDOT	General Fund
I3319	2024	Rufina St. & Lopez Lane Intersection	$50,000	30-Jun-2028	NMDOT	General Fund
I3320	2024	Paseo del Sol Extension	$50,000	30-Jun-2028	NMDOT	General Fund
I3321	2024	St. Michael's Rail Trail Underpass	$100,000	30-Jun-2028	NMDOT	General Fund
I4219	2024	El Museo Improvements	$126,950	30-Jun-2026	DFA	Severance Tax Bond
I4220	2024	Homebound Meals	$100,000	30-Jun-2028	DFA	General Fund
I4221	2024	Municipal Court Renovations	$29,843	30-Jun-2028	DFA	General Fund
I4222	2024	Supportive Housing	$844,470	30-Jun-2026	DFA	General Fund

FIR No. 10649.0

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Authorized Representatives and Agents for DFA Appropriation ID Number G3170, NMDOT Control Number C5223170

Sponsor(s): Councilor Amanda Chavez

Reviewing Department(s): Public Works Department

Staff Completing FIR: Regina Wheeler, Public Works Director **Date:** 1/28/2025 **Phone:** (505) 690 4197

Reviewed by City Attorney: _____ **Date:** Feb 5, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 6, 2025

Summary:
The Resolution designates authorized representatives and agents for an agreement with New Mexico Department of Finance and Administration (DFA), regarding appropriation ID Number G3170, New Mexico Department of Transportation (NMDOT) Control Number C5223170 ("Grant Agreement"). The Grant Agreement makes available one hundred and fifty thousand dollars ($150,000), appropriated by the New Mexico Legislature for a project to acquire easements and rights of way and to plan, design, construct and improve Pacheco Street, including pedestrian and bicycle improvements, between West San Mateo Road and Alta Vista Street in the city of Santa Fe in Santa Fe County.

Departments Affected:
Public Works Department.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City will not satisfy Article X. B. (v) of the Grant Agreement, which requires the Governing Body to adopt a resolution authorizing a person identified as the official representative of the City to sign the Grant Agreement and authorizing an agent to sign Requests for Payment. Additionally, without the adoption of this Resolution the City would not receive NMDOT's funding in the amount of one hundred and fifty thousand dollars ($150,000).

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
The Governing Body will be approving the agreement through a separate action.

Performance and Administrative Implications:
Public Works staff will acquire easements and rights of way and to plan, design, construct and improve Pacheco Street, including pedestrian and bicycle improvements, between West San Mateo Road and Alta Vista Street in association with this Grant Agreement. Public Works Department and Finance Department staff will also administer the grant.

Fiscal Implications:

**Although there is not a fiscal impact for authorizing and naming agents, it is worth pointing out that Amendment No. 1 to the Intergovernmental Agreement states that "NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects". If the City expends the total agreement amount of three hundred thousand dollars ($150,000), then NCNMEDD will receive one thousand five hundred dollars ($1,500) as one percent (1%) of the expense. The Governing Body will approve the agreement through a separate action. The City will pay the 1% from City funds separate from the grant funds and will approve the agreement through a separate action. The City will also budget funds for fiscal agent fees in a separate action.

Fiscal Impact

____X____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:
**See "Fiscal Implications" narrative above.

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: Regina Wheeler
Regina Wheeler (Feb 7, 2025 10:46 MST)

Email: rawheeler@santafenm.gov

Signature: ROMELLA GLORIOSO-MOSS

Email: rsglorioso-moss@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: January 27, 2025

To: Governing Body and Quality of Life Committee

From: Andréa Salazar, City Clerk AS

RE: 2025 Santa Fe Century Alcohol Approval

EXECUTIVE SUMMARY:

The proposed resolution would grant permission to the Santa Fe Century to serve beer at its annual bicycle events on City of Santa Fe ("City") property, in the Railyard Park, on May 17 and May 18, 2025.

BACKGROUND:

SFCC 1987, Section 23-6.2, requires the Governing Body to adopt a resolution for the sale and consumption of alcohol for locations on City property that are not specifically listed in Section 23-6.2(A). The resolution must identify the event, date, hours, location, number of expected attendees, type of alcohol to be served, required permits, and insurance as required by the City's Code.

The proposed resolution addresses the required elements:

- the event is the 2025 Santa Fe Century;
- the location is the Railyard Park;
- the dates are May 17, 2025 and May 18, 2025;
- the times on May 17, 2025 are from 3:00 p.m. to 9:00 p.m. and the times on May 18, 2025 are from 12:00 p.m. to 4:00 p.m.;
- the alcohol served will be beer;
- twelve hundred (1200) attendees are expected;
- a Public Celebration Permit is required; and
- the liquor liability and general liability insurance will list the City as an additional insured in an amount not less than $2,000,000.00, per occurrence and in the aggregate.

ATTACHMENTS:
Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Alma Castro

Councilor Jamie Cassutt

A RESOLUTION

AUTHORIZING THE SALE AND CONSUMPTION OF BEER DURING THE 2025 SANTA FE CENTURY ON MAY 17TH AND 18TH, 2025, PURSUANT TO SECTION 23-6.2(C) SFCC 1987.

WHEREAS, SFCC 1987, Section 23-6.2, governs the consumption of alcohol on City property; and

WHEREAS, for serving alcohol at City properties not specifically mentioned in SFCC 1987, Section 23-6.2(A), the ordinance requires the Governing Body to approve a resolution that specifies the event, date, hours, location, number of expected attendees, type of alcohol to be served, permits, and insurance, at least thirty (30) days prior to the event; and

WHEREAS, the Santa Fe Century ("Century") is an annual bicycle event that has been held since 1985; and

WHEREAS, according to the Century's website, approximately two thousand (2,000) cyclists participate in the Century's events every year; and

WHEREAS, the Century consists of a variety of cycling events for differing abilities that

highlight the landscape of northern New Mexico, starting and finishing in downtown Santa Fe; and

WHEREAS, the 2025 Century organizers seek to serve beer from the Second Street Brewery, promoting a local business to the community.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that alcohol service during the 2025 Santa Fe Century is hereby approved according to the following parameters:

Event:	2025 Santa Fe Century
Dates:	May 17th and 18th, 2025
Hours:	May 17th, 2025 from 3:00 p.m. to 9:00 p.m.
	May 18th, 2025 from 12:00 p.m. to 4:00 p.m.
Location:	The Railyard Park
Number of expected attendees:	1,200
Type of alcohol to be served:	Beer
Required Permits:	Public Celebration Permit
Required Insurance:	Liquor Liability and General Liability insurance with limits not less than $2,000,000, per occurrence and in aggregate, with the City of Santa Fe, its officials, directors, employees, and agents as additional insureds on a primary and noncontributory basis. The Santa Fe Century shall provide the City with Certificates of Insurance and applicable endorsements evidencing such coverage.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

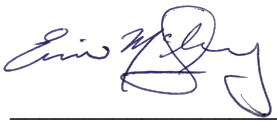
ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:



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ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/2025 Santa Fe Century Beer Garden Alcohol Approval

FIR No. 10647.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): 2025 Santa Fe Century Alcohol Approval

Sponsor(s): Councilor Alma Castro

Reviewing Department(s): City Clerk's Office

Staff Completing FIR: Andréa Salazar, City Clerk **Date:** 1/27/2025 **Phone:** (505) 955-6327

Reviewed by City Attorney: _____ **Date:** Jan 30, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 2, 2025

Summary:
This proposed Resolution authorizes the sale and consumption of beer at the 2025 Santa Fe Century ("Century"). The Century will be held at the Railyard Park on May 17th, 2025 from 3:00 p.m. to 9:00 p.m. and May 18th, 2025 from 12:00 p.m. to 4:00 p.m. The request is pursuant to SFCC 1987, Section 23-6.2, which requires the Governing Body to adopt a Resolution for events on Santa Fe City property that are not specifically listed in Section 23-6.2(A).

Departments Affected:
City Clerk's Office

Consequences of Not Enacting Legislation:
If this legislation is not adopted, then the Santa Fe Century will not be able to have beer as part of its 2025 bicycle events.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
The Governing Body approved the sale and consumption of beer at the 2024 Santa Fe Century with Resolution No. 2024-15.

Performance and Administrative Implications:
The Santa Fe Century is also required to obtain a public celebration permit for the event.

Fiscal Implications:
None Identified.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

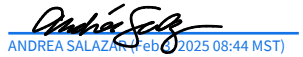
Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: 
ANDREA SALAZAR (Feb 7, 2025 08:44 MST)

Email: asalazar@santafenm.gov

City of Santa Fe
Governing Body
Findings of Fact and Conclusions of Law

Appeal # 2024-8309-APPL
Appellant's Name – Emily Rivera
Agent's Name – Lisa Martinez, B Constructiv LLC
Address – 718 Old Santa Fe Trail

THIS MATTER came before the City of Santa Fe (City) Governing Body (Governing Body) for a public hearing on January 15, 2025, to consider the appeal of Emily Rivera (Applicant or Appellant) from the written decision of the City's Historic Districts Review Board (Board) in Case # 2024-7892-HDRB. In the Board's decision, the Board designated the historic status of three structures at 718 Old Santa Fe Trail, Santa Fe (the "Property"). The Board designated a single-story, four-unit apartment building (the "Apartments" or "Main Structure") as "significant" and designated the historic status of two additional dwelling units (the "Casitas") as "contributing". The Appellant asked the Governing Body to downgrade the designations of the structures to lower historic statuses, arguing that the structures need considerable repair and renovation and the specially protected status assigned to the structures by the Board would make renovation prohibitively expensive.

I. RECORD ON APPEAL

The record on appeal (Record) included the following documents:

1. Memorandum dated January 10, 2025, for the January 15, 2025, Meeting of the Governing Body to the Members of the Governing Body, from Frank Ruybalid, Assistant City Attorney (Memorandum), with two decision charts;
2. Exhibit A, Verified Appeal Petition (Petition) filed May 6, 2024;
3. Exhibit B, Board Findings of Fact and Conclusions of Law for Case # 2024-7892-HDRB, approved May 14, 2024;
4. Exhibit C, relevant excerpt from Minutes of the March 12, 2024, Board meeting;
5. Exhibit D, Historic Preservation Staff Report and Exhibits for Case # 2024-7892-HDRB from the March 12, 2024, Board meeting, with exhibits:
    (1) 1982 Historic Building Inventory
    (2) 2007 Historic Cultural Properties Inventory
    (3) 1996 Historic Building Inventory Resurvey
    (4) 2024 Historic Cultural Properties Inventory
6. Exhibit E, Buildings Historic Status Map Screenshot.

II. FINDINGS OF FACT

After conducting a public hearing, the Governing Body hereby FINDS, as follows:

A. Factual Background

1. Structures on the Property consist of a row of four apartments, two free-standing casitas,

and a shed.

2. The Property is within the City's Downtown and Eastside Historic District.
3. The Apartment units are a single-story construction, parts of which were built in the 1800s and other parts built between 1935 and 1945, with all parts being at least 50 years old and subject to the authority of the Historic Districts Review Board.
4. The apartments units are habitable and were occupied by tenants at the time of the Governing Body hearing.
5. The Casitas are single-story constructions built before 1945 and are subject to the authority of the Historic Districts Review Board, being more than 50 years old.
6. Both Casitas have been uninhabited for at least 20 years, with Casita 1 being plainly uninhabitable, having a collapsed roof, crumbling adobe, and a breached wall on the south elevation. Casita 2 appears structurally sound but has deteriorated exterior stucco which requires repair.
7. Benigno and Inez Muñiz owned the Property from 1907 through Mr. Muñiz's death in 1945, and Mrs. Muñiz continued to live on the property until her death in 1995.
8. Benigno Muñiz was a prominent member of the community in Santa Fe and had significant roles, among them Local Chief of the International Typographical Union, Editor in Chief of the Spanish-language daily newspaper *El Nuevo Mexicano*, a board member of the Santa Fe Fiesta and Spanish Colonial Arts Society, and the director of Los Villeros Alegre, a 14-piece band that played traditional Spanish folk music and traveled widely.
9. The Applicant submitted an application for a status review to the Board on February 2, 2024, seeking a status review of the Property by the Board.
10. At the time the Applicant submitted her application, the historic status of the Apartments and Casita 2 had been designated "significant," and the status of Casita 1 and the shed had not been designated, according to the official Historic Buildings Status map kept by the City in accordance with Santa Fe City Code (SFCC) Section 14-5.2, Parts (A)(3) and (C)(2)(a).

B. Procedural History

11. The Historic Preservation (HP) staff reviewed the application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board a written report of its findings (Staff Report), which evaluated the factors relevant to the application.
12. The HP staff recommended to the Board that the Apartments be maintained as significant, Casita 1 and the shed be designated non-contributing, and Casita 2 be downgraded to non-contributing, in accordance with SFCC Section 14-5.2(C), Regulation of Significant and Contributing Structures in the Historic Districts.
13. At a public hearing held March 12, 2024, the Board heard presentations by the HP staff and sworn testimony from the Applicant and interested members of the public.
14. At the Board meeting, the Board members and the public discussed the Property's connection to Benigno Muñiz and his descendants, the history of the Property, the reason for the deterioration of the Casitas and their present condition, and the costs of repair and renovation. The Applicant said her intention is to renovate the structures consistently with their original design.

15. At the conclusion of the hearing the Board voted to:
    a. Maintain the status of the Apartments as significant, by a vote of 2 to 1;
    b. Upgrade the status of Casita 1 to contributing, by a vote of 3 to 0;
    c. Downgrade the status of Casita 2 to contributing, by a vote of 3 to 0; and
    d. Designate the status of the shed as non-contributing, by a vote of 3 to 0.
16. On May 14, 2024, the Board adopted written Findings of Fact and Conclusions of Law reflecting its decisions regarding the statuses of the four structures.
17. As reflected in the Findings of Fact and Conclusions of Law adopted by the Board, the Board's decision about the statuses of the structures was based on the following findings:
    a. The Main Structure (the Apartments) meets the definition of a "significant structure," because the evidence is that no plainly visible alterations to it have occurred since the 1940s, it maintains a high level of historic integrity, and it was owned and occupied for decades and further developed by the long-standing editor of an influential Spanish-language newspaper;
    b. Casita 1 meets the definition of a "contributing structure," for its high level of historic integrity. The Board found that the north façade of Casita 1 is the principal elevation of the building with features that define the character of the building's architecture;
    c. Casita 2 meets the definition of a "contributing structure," for its high level of historic integrity. The Board found that the north façade of Casita 2 is the principal elevation of the building with features that define the character of the building's architecture.
    d. The tool shed adjacent to Casita 1 meets the definition of a "non-contributing structure," for there is no evidence that it is 50 years old or older or that it helps to establish and maintain the character of the Historic District.
18. The Board's decision was based on the following provisions of the Historic Districts Ordinance:
    (a) SFCC Section 14-5.2(C)(2)(b)(i), which reads that the Historic Districts Review Board is authorized to change the status of a structure or to designate a status for a structure with no status designated.
    (b) SFCC Section 14-5.2(C)(2)(b)(ii), which reads that change in status or the designation of a status shall be based upon an evaluation of data provided through survey or other relevant sources of information and the definitions of "significant," "contributing" or "non-contributing."
    (c) The definitions, found in SFCC Section 14-12, as follows:
        i. "Significant structure," which is, "[A] structure located in a historic district that is approximately 50 years old or older, and that embodies distinctive characteristics of a type, period or method of construction. For a structure to be designated as significant, it must retain a high level of historic integrity. A structure may be designated as significant:
            A. for its association with events or persons that are important on a local, regional, national or global level; or
            B. if it is listed on or is eligible to be listed on the State Register of Cultural Properties or the National Register of Historic Places."
        ii. "Contributing structure," which is, "[A] structure, located in a Historic District, approximately 50 years old or older that helps to establish and

maintain the character of that Historic District. Although a contributing structure is not unique in itself, it adds to the historic associations or historic architectural design qualities that are significant for a district. The contributing structure may have had minor alterations, but its integrity remains."

iii. "Non-contributing structure," which is, "[A] structure, located in a Historic District, that is less than 50 years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the Historic District."

C. Appeal to Governing Body

19. Under SFCC Section 14-3.17(A)(1)(b), final actions of a Land Use Board include a written decision made after a public hearing.
20. On May 6, 2024, Appellant timely filed a Verified Appeal Petition, asking the Governing Body to review the decision of the Board and downgrade the historic statuses of the structure on the Property.
21. In the Verified Appeal Petition, the Appellant argued that:
    a. The Application was not complete, consistent with SFCC Section 14-3.1(G), because HDRB did not have floorplans or elevations needed for a complete and informed historic status review.
    b. The HP Staff and HDRB did not define or discuss the public visibility of façades for each of the four structures in the Application and whether the assigned statuses support the public good interest and harmonious appearance of the Historic Districts, as required by SFCC Section 14-5.2(A)(1).
    c. The Staff and HDRB did not identify the character-defining features of the façades and did not assess the doors and windows or other character defining features.
    d. In discussing and voting on the historic statuses, the HDRB did not follow the advice and recommendations of the City's Staff or the professional consultant who completed the 2024 Historic Property Inventory.
    e. In deciding the historic status of the structures at 718 Old Santa Fe Trail, the HDRB assumed that the three residential structures in the application comprise a historic compound, and this assumption is contrary to SFCC Section 14-5.2(K), Historic Compounds.
22. SFCC Section 14-3.17(A)(2) sets forth the valid grounds for an appeal of a Board decision and provides that an appeal may be filed for one or more of the following reasons only: (1) the Board's final action does not comply with SFCC Chapter 14 or the Zoning Enabling Act, NMSA 1978, Sections 3-21-1 to -14; (2) the Board misapplied SFCC Chapter 14; or (3) the Board's decision is not supported by substantial evidence.
23. As required by SFCC Section 14-3.17(D)(6), the City Land Use Director reviewed the Verified Appeal Petition for conformity with the requirements of SFCC Section 14-3.17 and determined that the Appeal conformed to the requirements.
24. The Governing Body appeal hearing was scheduled for January 15, 2025, and the Appellant provided notice of the Governing Body hearing in accordance with the notice provisions of SFCC Section 14-3.1(H)(4).

25. Under SFCC Section 14-2.2(F), the Governing Body conducts a de novo hearing on an appeal of a final action of a land use board.
26. The Appellant appeared in person at the hearing and was represented by Lisa Martinez, B Constructiv LLC.
27. During the hearing, the Governing Body received a presentation by an Assistant City Attorney, presentations by Agent Lisa Martinez and Appellant Emily Rivera, and comments from City Land Use Planner and HP staff member Paul Duran.
28. During the hearing, the Governing Body opened the floor and heard comments by five members of the public.
29. During the hearing, City Councilors asked questions of the Applicant and her Agent and the City staff, who provided additional information.
30. The Appellant did not appeal the non-contributing status designation of the shed on the Property, and the Governing Body did not review or reconsider that status.

III. FINDINGS OF FACT

After conducting a public hearing and reviewing the record, and having heard from the Applicant, her Agent and all interested persons, the Governing Body hereby FINDS, as follows:

1. Substantial evidence in the record supports the Historic Districts Review Board's finding that the Apartments on the property fulfill the definition of "significant structure".
2. The Casitas are in substantial disrepair and are uninhabitable in their present condition.
3. In the March 12, 2024, Historic Districts Review Board hearing on this property, the City's Historic Preservation Staff recommended that the Casitas be designated non-contributing.
4. The Historic Districts Code restricts alterations to contributing structures and imposes additional restrictions on the primary façades of contributing structures.

IV. CONCLUSIONS OF LAW

Under the circumstances and based upon the record and the evidence and testimony submitted at the hearing, the Governing Body CONCLUDES as follows:

1. The Governing Body has the power and authority to hear and decide the matter that is the subject of the Appeal.
2. The Board's written decision adopted May 14, 2024, was a final action subject to appeal.
3. The Appellant timely appealed The Board's decision to the Governing Body and complied with the procedural requirements set forth in the SFCC.
4. This Appeal should be denied in part because the status of the Apartments meets the definition of "significant structure," as determined by the Historic Districts Review Board.
5. This Appeal should be granted in part because the status of Casita 1 and Casita 2 meet the definition of "non-contributing structure," contrary to the determination by the Historic Districts Review Board.

V. VOTE AT THE HEARING

1. With respect to the Apartments, the Governing Body voted to deny the appeal and to uphold the Board's final action, with a vote of eight (8) in the affirmative and one (1), Councilor Pilar Faulkner, in the negative Councilor
2. With respect to Casita 1 and Casita 2, the Governing Body voted unanimously to grant the appeal and downgrade the historic status of the Casitas to non-contributing, contrary to the Board's final action, with a vote of none (9) in the affirmative and none (0) in the negative.

WHEREFORE, IT IS ORDERED ON THE 26TH OF FEBRUARY, 2025, BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Considering the foregoing findings and conclusions, the Governing Body:

1. DENIES the appeal with respect to the Apartments at 718 Old Santa Fe Trail, upholds the Board's decision, and denies the application.

2. GRANTS the appeal with respect to Casita 1 and Casita 2 at 718 Old Santa Fe Trail, downgrades the historic status of the Casitas to non-contributing, contrary to the Board's decision, and grants the application.

_____ _____
Alan M. Webber Date
Mayor

FILED WITH THE CITY CLERK:

_____ _____
Andréa Salazar Date
City Clerk

APPROVED AS TO FORM:

_____ Feb 21, 2025
Erin K. McSherry Date
City Attorney

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COUNTY OF SANTA CLARA

[additional counsel on signature page]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO, COUNTY OF SANTA CLARA, CITY OF PORTLAND, MARTIN LUTHER KING, JR. COUNTY, CITY OF NEW HAVEN,

Plaintiffs,

vs.

DONALD J. TRUMP, President of the United States, UNITED STATES OF AMERICA, PAMELA BONDI, Attorney General of the United States, EMIL BOVE, Acting Deputy Attorney General, UNITED STATES DEPARTMENT OF JUSTICE, KRISTI NOEM, Secretary of United States Department of Homeland Security, UNITED STATES DEPARTMENT OF HOMELAND SECURITY, DOES 1-100,

Defendants.

Case No. 25-1350

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Defendant President Donald J. Trump is intent on ignoring the rule of law and punishing all who would disagree with him. In his new Administration, the President is again trampling established law limiting the extent of federal power over state and local governments. He appears emboldened to do what the courts thwarted him from doing before and penalize "sanctuary jurisdictions" that do not bend to his will. This action seeks to check this abuse of power.

2. During his first term in office, President Trump sought to force local authorities to carry out federal civil immigration efforts. In January 2017, he issued Executive Order 13,768, which directed his Administration to withhold funds from and pursue enforcement actions against so-called "sanctuary jurisdictions" that limit local entanglement with federal immigration authorities. Federal courts, including the Ninth Circuit, roundly rejected these efforts as a blatantly unconstitutional usurpation of legislative authority. *See, e.g.*, *City & Cnty. of S.F. v. Trump*, 897 F.3d 1225 (9th Cir. 2018). President Trump's Department of Justice ("DOJ") also tried to condition various DOJ funds on local jurisdictions' agreement to enforce federal immigration law. Again, federal courts, including the Ninth Circuit, struck down these funding restrictions. *See City & Cnty. of S.F. v. Barr*, 965 F.3d 753 (9th Cir. 2020).

3. Undaunted by court rulings holding these efforts blatantly illegal, President Trump renewed his assault on these jurisdictions immediately upon taking office for a second term. On the same day he was inaugurated, he issued an Executive Order that purports to reinstate Executive Order 13,768. He then underscored his intent to punish jurisdictions that do not enforce his immigration policy priorities by issuing a second Executive Order, No. 14,159. That order returns to his 2017 playbook by directing Defendant Attorney General Pam Bondi and Defendant Department of Homeland Security Secretary Kristi Noem to withhold all federal funds from jurisdictions that refuse to use their local resources to carry out his immigration agenda. His administration has doubled down on these tactics, with the DOJ issuing a memo on February 5, 2025 stating their position that "State and local jurisdictions must comply with applicable immigration-related federal laws" and "state and local actors may not . . . fail to comply with lawful immigration-related directives." The memo

threatens not only termination of funding but also civil and criminal prosecution of any jurisdiction that refuses to comply.

4. In flagrant disregard of the law, President Trump seeks once again to punish those who disagree with him, coerce local authorities, and commandeer them into carrying out his agenda.

5. His actions fly in the face of foundational constitutional principles. They violate plain statutory language and numerous court orders. And they force local governments that have made deliberate decisions about how to make their communities safer and where to spend their own resources into an impossible choice—to relinquish their autonomy and independence and abandon their valid laws and policies, or face the sudden and devastating loss of federal funding and civil and criminal enforcement actions.

6. By this action, Plaintiffs challenge each of these related Executive actions. President Trump's Executive Order 14,159 and the DOJ's related memo violate the Tenth Amendment, Separation of Powers, the Spending Clause, and the Due Process Clause. DOJ's memo is additionally unlawful because it is arbitrary and capricious, contrary to constitutional rights, and issued in excess of its statutory jurisdiction.

7. Plaintiffs are not going to stand in the way of lawful federal immigration enforcement. But neither are they going to be bullied into abandoning their laws that have made their communities safer or doing what the federal government cannot compel them to do—actively assist the federal government in enforcing federal immigration laws.

8. For all of these reasons, as detailed below, Plaintiffs respectfully request the court to declare that these Executive actions are unlawful and to enjoin Defendants from enforcing the challenged provisions of the Executive Order and the DOJ's memo.

JURISDICTION AND VENUE

9. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 1346. This Court has further remedial authority under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202 *et seq.*

10. Venue properly lies within the Northern District of California because Plaintiffs City & County of San Francisco and County of Santa Clara reside in this judicial district and a substantial part of the events or omissions giving rise to this action occurred in this district. 28 U.S.C. §1391(e)(1).

INTRA-DISTRICT ASSIGNMENT

11. Assignment to the San Francisco Division of this District is proper pursuant to Civil Local Rule 3-2(c)-(d) because a substantial part of the acts or omissions that give rise to this action occurred in the City and County of San Francisco.

PARTIES

12. Plaintiff the City and County of San Francisco ("San Francisco") is a municipal corporation organized and existing under and by virtue of the laws of the State of California, and is a charter city and county.

13. Plaintiff the County of Santa Clara ("Santa Clara") is a charter county and political subdivision of the State of California.

14. Plaintiff the City of Portland ("Portland") is a municipal corporation of the State of Oregon duly organized and existing under the laws of the State of Oregon.

15. Plaintiff Martin Luther King, Jr. County ("King County") is a home rule charter county organized and existing under and by virtue of the constitution and laws of the State of Washington.

16. Plaintiff the City of New Haven ("New Haven") is a municipal corporation organized and existing under the laws of the State of Connecticut.

17. Defendant Donald J. Trump is the President of the United States. He is sued in his official capacity.

18. Defendant United States of America is sued under 28 U.S.C. § 1346.

19. Defendant United States Department of Justice ("DOJ") is an executive department of the United States federal government. 28 U.S.C. § 501. DOJ is responsible for the governmental actions at issue in this lawsuit.

20. Defendant Pamela Bondi is the Attorney General of the United States, the highest ranking official in DOJ, and is responsible for the decisions of DOJ. She is sued in her official capacity.

21. Defendant Emil Bove is the Acting Deputy Attorney General, the second-ranking official within DOJ, and therefore responsible for the decisions of DOJ. He is sued in his official capacity.

22. Defendant United States Department of Homeland Security ("DHS") is an executive department of the United States federal government. 6 U.S.C. § 111. DHS is responsible for enacting some of the governmental actions at issue in this lawsuit.

23. Defendant Kristi Noem is the Secretary of Homeland Security, the highest ranking official in DHS, and responsible for the decisions of DHS. She is sued in her official capacity.

24. Doe 1 through Doe 100 are sued under fictitious names. Plaintiffs do not now know the true names or capacities of said Defendants, who were responsible for the alleged violations, but pray that the same may be alleged in this complaint when ascertained.

FACTUAL ALLEGATIONS

I. Plaintiffs' Laws and Policies

25. Plaintiffs have each made the lawful decision to limit the use of their local resources to assist with federal civil immigration enforcement. In general, these laws and policies limit cooperation with U.S. Immigration & Customs Enforcement ("ICE") and other immigration enforcement authorities with respect to civil immigration detainer requests and administrative warrants, the sharing of confidential personal information (such as contact information) of individuals served by local officials, the sharing with ICE of release dates of individuals in local custody, and the collection of immigration or citizenship information about communities served by local officials.

26. These local policy choices are not designed to, and do not, interfere with federal law enforcement, but instead ensure that all residents of Plaintiffs' communities—regardless of immigration status—feel safe reporting crimes, going to schools, seeking medical care, and accessing critical public services.

27. These local policies also preserve scarce local resources. For example, a civil immigration detainer request is distinct from a criminal warrant, which Plaintiffs honor. A detainer request is not issued by a judge based on a finding of probable cause. It is simply a request by ICE that a state or local law enforcement agency hold individuals after their release date to provide ICE agents extra time to decide whether to take those individuals into federal custody and then deport them. Complying with detainer requests requires municipalities to commit scarce law enforcement personnel and resources to track and respond to requests, detain individuals in holding cells, and supervise and

feed individuals during the prolonged detention. And the federal government has made clear that the local agency bears the financial burden of the detention, providing that "[n]o detainer issued as a result of a determination made under this chapter . . . shall incur any fiscal obligation on the part of the Department." 8 C.F.R. § 287.7(e).

28. Further, courts have held that complying with civil immigration detainer requests, in the absence of a probable cause determination, violates the Fourth Amendment to the United States Constitution and could subject Plaintiffs to civil liability. *See Hernandez v. United States*, 939 F.3d 191, 200–01 (2nd Cir. 2019); *Morales v. Chadbourne*, 793 F.3d 208, 217 (1st Cir. 2015); *Miranda-Olivares v. Clackamas Cnty*., No. 12-cv-02317-ST, 2014 WL 1414305, at *9 (D. Or. Apr. 11, 2014); *see also Melendres v. Arpaio*, 695 F.3d 990, 1000–01 (9th Cir. 2012) (applying the Fourth Amendment to immigration arrests).

29. While "sanctuary" is not a legally defined term—and some Plaintiffs like Santa Clara do not use the term "sanctuary" to describe their policies or consider themselves to be "sanctuary jurisdictions"—Defendants have characterized all jurisdictions with policies like those adopted by Plaintiffs to be so-called "sanctuary jurisdictions."

A. San Francisco

30. San Francisco has designated itself a Sanctuary City since 1989. In the 1980s, thousands of Central American refugees fled their countries in the midst of violent civil wars to seek legal protection in the United States. Against the backdrop of this humanitarian crisis, San Francisco began enacting the ordinances that, as later amended, make up San Francisco's Sanctuary City laws.

31. Today, San Francisco's body of Sanctuary City law is contained in two chapters of San Francisco's Administrative Code: Chapters 12H and 12I. Importantly, these chapters do not shield criminals or prevent individuals from being prosecuted for illegal acts. Instead, they protect children by ensuring that their parents feel safe taking them to playgrounds, to schools, and to hospitals. They support family stability and community engagement. And they protect the safety and health of all residents of San Francisco by helping to ensure that everyone, including undocumented immigrants, feels safe reporting crimes, cooperating with police investigations, and seeking medical care.

32. San Francisco Administrative Code Chapter 12H prohibits San Francisco departments, agencies, commissions, officers, and employees from using San Francisco funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding the release status, or other confidential identifying information, of an individual unless such assistance is required by Federal or state law.

33. San Francisco Administrative Code Chapter 12I prohibits San Francisco law enforcement officials from detaining an individual who is otherwise eligible for release from custody on the basis of a civil immigration detainer request issued by the Federal government.

34. Chapter 12I also prohibits San Francisco law enforcement officials from responding to a federal immigration officer's request for advance notification of the date and time an individual in San Francisco's custody is being released, unless the individual in question meets certain criteria. *See* S.F. Admin. Code § 12I.3(c), (d).

35. Finally, as relevant here, Chapter 12I provides that "[l]aw enforcement officials shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, on the basis of an administrative warrant, prior deportation order, or other civil immigration document based solely on alleged violations of the civil provisions of immigration laws." *See* Section 12I.3(e). "Personal information" is defined as "any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information." *See* Section 12I.2.

36. San Francisco's Sanctuary City laws arise from San Francisco's commitment and responsibility to ensure public safety and welfare. The Board of Supervisors, as San Francisco's legislative body, found that public safety is "founded on trust and cooperation of community residents and local law enforcement." Section 12I.1. Citing a study by the University of Illinois, which found that at least 40% of Latinos surveyed were less likely to provide information to police because they feared exposing themselves, family, or friends to a risk of deportation, the Board stated that "civil immigration detainers and notifications regarding release undermine community trust of law enforcement by instilling fear in immigrant communities of coming forward to report crimes and cooperate with local law enforcement agencies." *Id.*; *see also id.* ("The City has enacted numerous

laws and policies to strengthen communities and to build trust between communities and local law enforcement. Local cooperation and assistance with civil immigration enforcement undermines community policing strategies.").

37. The legislative findings set forth in Chapter 12I evidence the legitimate local purpose of San Francisco's Sanctuary City laws. For example, the Board declared:

> Fostering a relationship of trust, respect, and open communication between City employees and City residents is essential to the City's core mission of ensuring public health, safety, and welfare, and serving the needs of everyone in the community, including immigrants. The purpose of this Chapter 12I, as well as of Administrative Code Chapter 12H, is to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation between residents and City officials, including especially law enforcement and public health officers and employees, and to ensure community security, and due process for all. (*See* Section 12I.2.)

38. The Board of Supervisors also had a public health purpose for its decision to restrict disclosure of confidential information: "To carry out public health programs, the City must be able to reliably collect confidential information from all residents . . . . Information gathering and cooperation may be jeopardized if release of personal information results in a person being taken into immigration custody." Section 12I.1.

39. Finally, the Board of Supervisors determined that enforcing immigration detainer requests would require San Francisco to redirect scarce local law enforcement personnel and resources—noting that the costs of "responding to a civil immigration detainer can include, but [are] not limited to, extended detention time, the administrative costs of tracking and responding to detainers, and the legal liability for erroneously holding an individual who is not subject to a civil immigration detainer." Section 12I.1. In short, the Board of Supervisors concluded that "[c]ompliance with civil immigration detainers and involvement in civil immigration enforcement diverts limited local resources from programs that are beneficial to the City." *Id*.

40. San Francisco departments have adopted and implemented policies consistent with Chapters 12H and 12I.

B. Santa Clara

41. Plaintiff Santa Clara is home to one of the largest and most diverse populations in the United States. With nearly two million residents, Santa Clara is the sixth largest county in California and more populous than twelve states. More than 40 percent—numbering upwards of 750,000—of Santa Clara's residents are foreign-born. This is the highest percentage of any county in California and one of the highest of any county nationally. Santa Clara's foreign-born population includes naturalized citizens; lawful permanent residents; refugees, asylees, student- and work-visa holders; victims of human trafficking or other crimes who have assisted law enforcement and hold T or U visas; and residents who lack lawful immigration status.

42. Santa Clara is governed by an elected Board of Supervisors, which has repeatedly expressed its position that fostering a relationship of trust, respect, and open communication between and among Santa Clara officials and community members is critical to successfully achieving Santa Clara's mission of protecting community health and wellbeing and ensuring public safety.

43. Santa Clara's elected Sheriff and District Attorney echo the same sentiment in their roles as Santa Clara's top law enforcement officials, expressing and instructing their employees that to encourage the reporting of crime and cooperation in criminal investigations, *all* community members, regardless of their immigration status, must feel safe and secure when contacting members of local public safety agencies; and must not fear that making contact will lead to an immigration inquiry or proceeding against them or a loved one. Their leaders have stated publicly many times not only that their crime prevention, prosecution, and investigation services are available to all, but that the full participation of the community as victims and witnesses—buoyed by Santa Clara's policies of separation from federal civil immigration enforcement and the confidence and trust they engender—has been critical to solving specific crimes.

44. Santa Clara employees do not impede or prevent ICE officials from carrying out their own enforcement activities relating to federal civil immigration laws. However, under Santa Clara's longstanding policies, employees do not use Santa Clara's *own* facilities, resources, or staff time to assist.

45. Santa Clara's policy of not expending local law enforcement resources to assist with federal civil immigration enforcement is set forth in Board of Supervisors Policy 3.54 ("Board Policy 3.54"). Board Policy 3.54 prohibits jail administration from honoring ICE civil detainer requests; provides that the Sheriff may, in their discretion, facilitate transfers of incarcerated individuals to ICE custody *only* under the auspices of a signed judicial warrant or court order; and prohibits Santa Clara staff from using local resources or local facilities to support civil immigration enforcement activities, including by "communicating with ICE regarding individuals' incarceration status or release dates." Board Policy 3.54, by its express terms, does not in any way hamper local law enforcement officers' cooperation with other agencies in any *criminal* law enforcement activities. In full, Board Policy 3.54 states:

> It is the policy of the County of Santa Clara that County officials and employees may cooperate with United States Immigration and Customs Enforcement (ICE) only as follows:
>
> (A) Consistent with longstanding County policy, the California Values Act (Gov. Code, §§ 7284-7284.12), and the Fourth Amendment to the United States Constitution, the County does not, under any circumstances, honor civil detainer requests from ICE by holding inmates on ICE's behalf for additional time after they would otherwise be released from County custody.
>
> (B) It is the policy of the County that the Sheriff may exercise discretion to facilitate the transfer of an adult inmate to ICE custody if an ICE agent presents a valid arrest warrant signed by a federal or state judicial officer, or other signed writ or order from a federal or state judicial officer authorizing ICE's arrest of the inmate. An administrative warrant signed by an agent or official of ICE or of the Department of Homeland Security (such as a Form I-200) is not a judicial warrant and will not be honored. The Sheriff and Chief of Correction shall jointly develop transfer procedures to implement this paragraph.
>
> (C) Except as permitted by this Policy, the County shall not provide assistance or cooperation to ICE in its civil immigration enforcement efforts, including by giving ICE agents access to individuals or allowing them to use County facilities for investigative interviews or other purposes, expending County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates, or otherwise participating in any civil immigration enforcement activities. This Policy does not limit or prohibit giving assistance with the investigative activities of any local, state, or federal law enforcement agency relating to suspected violations of criminal laws.

46. The requirements of subsections (A) and (C) of Board Policy 3.54 have been in place since 2011, and subsection (B) was added when the Board of Supervisors amended the policy in 2019.

C. Portland

47. In 1987, the Oregon State Legislature passed legislation prohibiting the use of state and local law enforcement resources to detect or apprehend persons whose only violation was being in the country without documentation. The bipartisan bill passed nearly unanimously and was codified in ORS 181A.820. In the years since, the state has added to the policy, and, in 2017, Portland adopted a resolution affirming its commitment to those state laws. These laws are instrumental in promoting a relationship of trust between law enforcement and immigrant communities, ensuring that victims report crimes to law enforcement so that perpetrators are apprehended before harming others.

48. The current iteration of the Oregon Law is codified in ORS 180.805 and ORS 181A.820-829. ORS 180.805 provides, in relevant part, that:

a. "Except as required by state or federal law, a public body may not disclose, for the purpose of enforcement of federal immigration laws," a person's address, workplace or hours of work, school or school hours, contact information, known associates or relatives, or the date and time of a person's hearings or other proceedings with a public body.

b. "Except as required by state or federal law, or as necessary to determine eligibility for a benefit a person is seeking, a public body may not inquire about or request information concerning a person's citizenship or immigration status."

c. "If a public body collects information concerning a person's citizenship or immigration status, the public body shall decline to disclose the information unless disclosure is required by" State or federal law, a court order, or a warrant authorized by a court.

d. The above may be enforced through a civil action.

49. ORS 181A.820-829 provide, in relevant part, that:

a. Law enforcement agencies may not use agency money, equipment or personnel to enforce federal immigration law and may not enter into immigration-related detention agreements with federal immigration authorities.

b. "Public facilities, property, moneys, equipment, technology or personnel may not be used for the purpose of investigating, detecting, apprehending, arresting, detaining or holding individuals for immigration enforcement."

c. Violations of these provisions may be reported through a formal reporting process and may be enforced through civil action.

50. Portland's Resolution NO. 37277 expresses the city's commitment to adhering to federal and state law. As such, in relevant part, it prohibits the city from using city resources to enforce federal immigration law except where required to do so by state or federal law, prohibits the Portland Police Bureau from cooperating with ICE except as expressly required by federal law, and resolves to take other action that support the city's immigrant community.

51. In 2017 and 2018, the first Trump Administration attempted to require Oregon and Portland to cooperate with federal authorities on enforcement of federal immigration law as a condition of receiving funds awarded under the Byrne JAG formula grant program. A federal district court held that the Attorney General lacked the authority to impose these conditions and issued a permanent injunction, *Oregon v. Trump*, 406 F. Supp. 3d 940, 963 (D. Or. 2019). The Ninth Circuit affirmed this ruling. *City & Cnty. of S.F. v. Garland*, 42 F.4th 1078, 1084 (9th Cir. 2022).

D. King County

52. King County is the largest county in Washington and the twelfth most populous county in the nation. More than 25% of King County residents are foreign-born and contribute to making it a vibrant center for aerospace manufacturing, technological innovation, cutting-edge medical research, education, agriculture, and other industries.

53. King County is subject to state and local laws that make the county a welcoming place for immigrants. Under the Keep Washington Working Act (KWW), Laws of 2019 ch. 440, E2SB 5497 (May 21, 2019), all local governments in the state are precluded from using local resources to assist in federal immigration enforcement efforts. *See id.* Sec. 1 (KWW purpose is "ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working"). Under KWW, state and local law enforcement officers may not "[i]nquire into or collect information about an individual's immigration or citizenship status, or place of birth unless there is a connection between such information and an investigation into a violation of state or local criminal law" or "[p]rovide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as

required by law." RCW 10.93.160. KWW similarly prevents local jurisdictions from honoring immigration detainers unless accompanied by a judicial warrant. *Id.*

54. Under King County Code (KCC) 2.15.010, county officials are generally precluded from inquiring about immigration status or using county resources to assist with enforcement of federal immigration laws. In particular, "[a]n agent of King County or a county employee shall not expend any time, moneys or other resources on facilitating the civil enforcement of federal immigration law or participating in civil immigration enforcement operations, except where state or federal law, regulation, or court order shall so require." KCC 2.15.010.

55. King County has remained steadfast in its compliance with KWW and KCC 2.15. The King County Executive, Dow Constantine, directed King County's 16,000+ work force on February 4, 2024 that "[w]e remain committed to enforcing state law and local ordinances protecting the rights of immigrants." Policies in effect from various King County Departments, including the King County Sheriff and the Department of Adult and Juvenile Detention, reflect the county's determination to follow state and local law.

E. New Haven

56. The Mayor of the City of New Haven issued a Welcoming City Executive Order on July 23, 2020. That Order limits the City's entanglement with federal civil immigration enforcement as part of New Haven's "commitment to promoting the safety of all who live here and in recognition of the fact that all persons need to feel comfortable in their interactions with City officials." Pursuant to the Order, New Haven City employees and local law enforcement are generally prohibited from asking about a person's immigration status. The Order further prohibits local law enforcement from detaining a person solely on the belief that they have committed a civil immigration violation or detaining or arresting a person based solely on a civil detainer request or administrative warrant issued by ICE.

II. Defendants' Efforts to Defund and Threaten Sanctuary Jurisdictions

A. President Trump's Executive Orders

1. The First Trump Administration's Unsuccessful Efforts to Defund Sanctuary Jurisdictions

57. President Trump's efforts to threaten and coerce municipalities like Plaintiffs that limit cooperation with federal civil immigration enforcement is not new. Days into his first term in January 2017, he issued Executive Order 13,768. 82 Fed. Reg. 8799 (Jan. 25, 2017). That Executive Order declared that sanctuary jurisdictions were jurisdictions that "willfully violate Federal law in an attempt to shield aliens from removal from the United States," and declared it the policy of the executive branch to ensure that sanctuary jurisdictions "that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law." *Id.*

58. To effectuate this policy, the Executive Order directed the Attorney General and Secretary of Homeland Security that any jurisdictions "that willfully refuse to comply with 8 U.S.C. § 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary." 82 Fed. Reg. at 8801.

59. The Attorney General was further directed to "take appropriate enforcement action against any entity that violates 8 U.S.C. § 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law." *Id.*

60. With Executive Order 13,768, President Trump and his administration sought to coerce states, counties, and cities to go against their considered judgments about how best to use their own law enforcement resources to serve their communities, and abandon their policies of non-cooperation with federal civil immigration enforcement. In some cases, the threat had its desired effect, with local governments like Miami-Dade County quickly announcing they were letting go of their policies in order to keep their federally funded programs and services.

61. Plaintiffs City and County of San Francisco and County of Santa Clara challenged Executive Order 13,768 as unconstitutional. This Court granted San Francisco and Santa Clara's motion for preliminary injunction, *Cnty. of Santa Clara v. Trump*, 250 F. Supp. 3d 497 (N.D. Cal. 2017), and later granted their motion for summary judgment, issuing a permanent injunction enjoining enforcement of Executive Order 13,768, *Cnty. of Santa Clara v. Trump*, 267 F. Supp. 3d 1201 (N.D.

Cal. 2017). The Ninth Circuit affirmed this Court's ruling that the Executive Order was unconstitutional. *City & Cnty. of S.F.*, 897 F.3d at 1235. This Court then entered a final judgment and order enjoining the Trump Administration from enforcing the relevant section of Executive Order No. 13,768 within the State of California. *See* Stipulation and Final Judgment and Order, ECF No. 235, *City & Cnty. of S.F. v. Trump*, No. 17-cv-00485 (N.D. Cal. Aug. 15, 2019).

62. The first Trump Administration then tried another approach to cut funds to jurisdictions that the administration considered "sanctuary jurisdictions." DOJ tried to condition funding under the Edward Byrne Memorial Justice Assistance Grant Program ("Byrne JAG") on local cooperation with federal civil immigration enforcement priorities. Those conditions too were swiftly and successfully challenged, including before this Court and the Ninth Circuit. *See, e.g.*, *City & Cnty. of S.F. v. Sessions*, 349 F. Supp. 3d 924 (N.D. Cal. 2018); *City & Cnty. of S.F. v. Sessions*, 372 F. Supp. 3d 928 (N.D. Cal. 2019); *Oregon v. Trump*, 406 F. Supp. 3d 940, 963 (D. Or. 2019); *City and Cnty. of S.F. v. Barr*, 965 F.3d 753, 757 (9th Cir. 2020); *City & Cnty. of S.F. v. Garland*, 42 F.4th 1078, 1084 (9th Cir. 2022). Those lawsuits resulted in injunctions here and elsewhere prohibiting the DOJ from withholding Byrne JAG funds based on the challenged immigration-related conditions. Notably, the United States District Court for the Northern District of Illinois issued an order that "applie[d] to the Attorney General's imposition of the Challenged Conditions *and any materially identical conditions on the Byrne JAG grant program in FY 2018 and all future grant years*." Am. Final Judgment & Order at 3, ECF No. 183, *City of Chicago v. Garland*, No. 18-cv-06859 (N.D. Ill. Mar. 8, 2022) (emphasis added). The court also specified that the order's "effects run to the benefit of all Byrne JAG applicants and recipients and are not limited to the City of Chicago and its sub-grantees." *Id.*

63. Ultimately, when President Joseph R. Biden took office, he issued Executive Order 13993, which rescinded President Trump's Executive Order 13,768. *See* 86 Fed. Reg. 7051 (Jan. 20, 2021).

2. The Current Trump Administration Renews Efforts to Unlawfully Target Sanctuary Jurisdictions

a. President Trump Issues Executive Orders on Sanctuary Jurisdictions

64. Immediately upon taking office for his second term on January 20, 2025, President Trump issued a slew of Executive Orders vilifying immigrants and renewing his efforts to target sanctuary jurisdictions.

65. First, the President issued Executive Order 14,148, entitled "Initial Rescissions of Harmful Executive Orders and Actions." 90 Fed. Reg. 8237 (Jan. 20, 2025). In relevant part, Executive Order 14,148 revoked Executive Order 13,993—and purported to reverse the revocation of President Trump's Executive Order 13,768. 90 Fed. Reg. at 8237.

66. Second, the President doubled down on his efforts to compel sanctuary jurisdictions to do his bidding by issuing Executive Order 14,159, entitled "Protecting the American People Against Invasion." 90 Fed. Reg. 8443 (Jan. 20, 2025) (Exhibit A). Executive Order 14,159 repeats the xenophobic rhetoric common to this Administration, asserting without factual basis that "[m]any . . . aliens unlawfully within the United States present significant threats to national security and public safety, committing vile and heinous acts against innocent Americans," are "engaged in hostile activities, including espionage, economic espionage, and preparations for terror-related activities," and "have abused the generosity of the American people." 90 Fed. Reg. at 8443.

67. Section 17 of Executive Order 14,159 provides as follows:

> *Sanctuary Jurisdictions*. The Attorney General and the Secretary of Homeland Security shall, to the maximum extent possible under law, evaluate and undertake any lawful actions to ensure that so-called "sanctuary" jurisdictions, which seek to interfere with the lawful exercise of Federal law enforcement operations, do not receive access to Federal funds. Further, the Attorney General and the Secretary of Homeland Security shall evaluate and undertake any other lawful actions, criminal or civil, that they deem warranted based on any such jurisdiction's practices that interfere with the enforcement of Federal law. 90 Fed. Reg. at 8446.

68. Like Executive Order 13,768 before it, Executive Order 14,159 contains both a restriction on funding (contained in sentence one) and an enforcement directive (contained in sentence

two) against jurisdictions they deem "sanctuary jurisdictions."

69. The funding restriction in the Order requires the Attorney General and DHS Secretary to withhold all "Federal funds" from sanctuary jurisdictions "to the maximum extent permissible by law." 90 Fed. Reg. at 8446.

70. The enforcement directive in the Executive Order directs the Attorney General and DHS Secretary to evaluate and pursue "criminal or civil" legal action against any sanctuary jurisdiction based on any practices deemed to "interfere with the enforcement of Federal law." *Id.*

71. Notably, the Administration's definition of "sanctuary jurisdictions" is even broader than under Executive Order 13,768. Where Executive Order 13,768 defined sanctuary jurisdictions by reference to compliance with 8 U.S.C. § 1373, Executive Order 14,159 simply defines sanctuary jurisdictions as those "seek[ing] to interfere with the lawful exercise of Federal law enforcement operations" in the Administration's view. *Id.*

72. Executive Order 14,159 is an attempt to circumvent this Court's permanent injunction entered against Section 9 of Executive Order 13,768. In substance, both orders are the same—each directs the Attorney General or the Secretary of Homeland Security to withhold federal funds from sanctuary jurisdictions. Executive Order 14,159 fails to cabin its reach to any subset of federal funds, and so, on its face, it is as expansive as Executive Order 13,768. Neither order attempts advance a clear definition of what constitutes a sanctuary jurisdiction, nor is there any semblance of congressional authority to support either order.

b. DOJ Implements Executive Order 14,159

73. On January 21, 2025, a day after Executive Order 14,159 was issued, Defendant Acting Deputy Attorney General Bove issued a memorandum to all DOJ employees entitled "Interim Policy Changes Regarding Charging, Sentencing, And Immigration Enforcement" ("Bove Memo") (Exhibit B).

74. The Bove Memo implements Executive Order 14,159, including the enforcement directive related to sanctuary jurisdictions. Ex. B at p.3. The memo states the position of DOJ that "[t]he Supremacy Clause and other authorities require state and local actors to comply with the Executive Branch's immigration enforcement initiatives." *Id.* Immigration enforcement initiatives are

not defined. On information and belief, Defendants seek to unlawfully compel localities across the country, including Plaintiffs, and in contravention of court orders and precedent, to participate and assist with aggressive immigration enforcement measures announced by the Trump Administration.

75. The Bove Memo further states DOJ's view that state and local actors violate federal law if they "fail[] to comply with lawful immigration-related commands and requests" pursuant to a non-exhaustive and vague list of authorities, including the President's "extensive Article II authority with respect to foreign affairs and national security, the Immigration and Nationality Act, and the Alien Enemies Act." *Id.*

76. The Bove Memo also concludes that jurisdictions with laws that "prohibit[] disclosures of information to federal authorities engaged in immigration-enforcement activities" "threaten to impede Executive Branch immigration initiatives" and "threaten public safety and national security." *Id.*

77. The scope of immigration-related "commands" and "requests" is not defined, nor does the Bove Memo describe what information must be disclosed to immigration authorities. In fact, Defendants appear to interpret federal law to require that local jurisdictions comply with civil detainer requests, notification requests, civil administrative warrants, and request for personal information (including contact information and release dates) about undocumented residents in Plaintiffs' jurisdictions, despite court orders and precedent foreclosing Defendants' understanding of federal law. See Part II.C, infra.

78. The Bove Memo directs U.S. Attorney's Offices to investigate incidents of local actors failing to comply with immigration enforcement initiatives, commands, or requests for prosecution under 18 U.S.C. § 371, 8 U.S.C. § 1324, and 8 U.S.C. § 1373.

79. Plaintiffs' decision to decline to participate in federal immigration enforcement efforts is not a crime under any of the cited statutes. 8 U.S.C. § 1324 makes it a felony to, *inter alia*, knowingly or recklessly conceal, harbor, or shield an undocumented immigrant from detection or encourage or induce an undocumented immigrant to come to, enter, or reside in the United States. *See* 8 U.S.C. § 1324(a)(1)(A)(iii), (iv). A violation of these provisions, without any aggravating

circumstances, is subject to fines and a sentence of up to five years in prison for each person involved. *Id.* § 1324(a)(1)(B).

80. Declining to provide local resources to assist with all federal immigration initiatives, commands, and requests does not constitute a violation of § 1324. As discussed above, and consistent with Ninth Circuit precedent, Plaintiffs' laws do not and are not intended to interfere with federal law enforcement or shield or conceal undocumented immigrants from federal immigration authorities, but are instead a lawful exercise of authority to preserve scarce local resources to address matters of local concern and to build trust between government and the local community.

81. 8 U.S.C. § 1373 makes it unlawful for any jurisdiction to "prohibit, or in any way restrict," any government entity or official from sending "citizenship or immigration status" information about an individual to federal immigration authorities, or receiving such information from immigration authorities.

82. This Court and the Ninth Circuit have held that § 1373 does not require jurisdictions to share non-immigration-status information (such as custody status, release date, and contact information) with immigration authorities. *See City & Cnty. of S.F. v. Sessions*, 349 F. Supp. 3d 924, 969 (N.D. Cal. 2018); *United States v. California*, 921 F.3d 865, 891–93 (9th Cir. 2019); *City & Cnty. of S.F. v. Barr*, 965 F.3d 753 (9th Cir. 2020). Any interpretation of § 1373 that would require assistance more broadly squarely conflicts with this precedent.

83. 18 U.S.C. § 371 makes it a crime to conspire to commit an offense against or defraud the United States. If the underlying offense is a felony, a violation of this provision is subject to financial penalties and/or a sentence of up to five years in prison. For the reasons stated above, Plaintiffs do not believe that their policies violate federal law or constitute an offense against the United States.

84. In addition to threatening prosecution under these statutes, the Bove Memo announces that a newly established "Sanctuary Cities Enforcement Working Group" will "identify state and local laws, policies, and activities that are inconsistent with Executive Branch immigration initiatives" and take legal action to challenge these laws. Ex. B at p.3.

85. In the context of other contemporaneous actions taken by the Administration, Defendants' directive that local actors must "comply" with immigration-related "initiatives" and "requests" under threat of prosecution is extraordinarily vague and could effectively require local jurisdictions in every state to administer federal immigration laws, in contravention of the text of federal statutes, constitutional principles, and precedent foreclosing such a view.

86. For example, on January 23, 2025 the then-acting DHS Secretary issued an order entitled "Finding of Mass Influx of Aliens" ("DHS Order"). In that Order, the acting Secretary invoked his authority under the INA and 28 C.F.R. § 65.83 to "request assistance from a State or local government in the administration of the immigration laws of the United States," *inter alia*, when "there exist circumstances involving the administration of the immigration laws of the United States that endanger the lives, property, safety, or welfare of the residents of a State or locality," including an "actual or imminent mass influx of aliens" arriving at the border. 28 C.F.R. § 65.83(b), (d)(1).

87. Citing various statistics about the number of undocumented immigrants crossing the southern border, the acting DHS Secretary concluded there was "an actual or imminent mass influx of aliens" at the southern border and that this "influx" threatens all 50 states.

88. On this account, the acting DHS Secretary formally invoked his authority under the INA and implementing regulations to "request the assistance of State and local governments in all 50 States" to administer federal immigration law.

89. While the DHS Order is phrased as a "request," the Bove Memo provides that states and local jurisdictions are *required* to comply with the Executive Branch's "initiatives" and "requests."

B. DOJ Freezes Federal Funding for Sanctuary Jurisdictions and Orders Investigations and Prosecutions of These Jurisdictions

1. The Funding Restriction in Executive Order 14,159 is Temporarily Paused

90. On January 27, 2025, the Office of Management and Budget ("OMB") issued Memo 25-13 ("OMB Memo") announcing a pause on "all Federal financial assistance" in order to review and implement the funding conditions in several of President Trump's Executive Orders, including the Funding Restriction in Executive Order 14,159.

91. The OMB Memo was immediately challenged in at least two cases. *See Nat'l Council of Nonprofits v. Office of Mgmt. & Budget*, No. 25-239 (D.D.C. filed Jan. 28, 2025); *New York v. Trump*, No. 25-CV-39 (D.R.I. filed Jan. 28, 2025). The DOJ and the then Acting Attorney General were named in the *New York* lawsuit. The federal court in that case issued a Temporary Restraining Order directing that the defendants (including DOJ) may not "pause, freeze, impede, block, cancel, or terminate" federal financial assistance to the States as directed by the OMB Memo "except on the basis of the applicable authorizing statutes, regulations, and terms." TRO at 11, ECF No. 50, *New York* (Jan. 31, 2025). Defendants were further enjoined from "giving effect to the OMB Directive under any other name or title or through any other Defendants." *Id.* at 12.

2. DOJ Issues its Own Freeze on Funding

92. On February 5, 2025, Defendant Attorney General Bondi issued a memo to all DOJ employees entitled "Sanctuary Jurisdiction Directives" ("Bondi Memo") (Exhibit C).

93. Consistent with the direction of Executive Order 14,159, the Bondi Memo states that DOJ announced its own funding restriction to "ensure that, consistent with law, 'sanctuary jurisdictions' do not receive access to Federal funds from the Department." Ex. C at p.1.

94. The Attorney General also proscribes that "[s]anctuary jurisdictions should not receive access to federal grants administered by the Department of Justice." Ex. C at p.1. Rather than relying on the (enjoined) Funding Restriction in Executive Order 14,159, the Attorney General purports to invoke DOJ's "own authority to impose any conditions of funding that do not violate applicable constitutional or statutory limitations." *Id.* The memo further states that certain DOJ grants will be conditioned on compliance with 8 U.S.C. § 1373, and that future grants may be tailored "to promote a lawful system of immigration" and to "reduce efforts by state or local jurisdictions to undermine a lawful system of immigration." *Id.* at 2.

95. To effectuate this unlawful order, the Attorney General directs that the Department of Justice "shall pause the distribution of all funds until a review has been completed, terminate any agreements that are in violation of law or are the source of waste, fraud, or abuse, and initiate clawback or recoupment procedures, where appropriate." Ex. C at p.1. The Attorney General purports

to justify this measure as "[c]onsistent with applicable statutes, regulations, court orders, and terms." *Id.*

96. The Bondi Memo defines a "sanctuary jurisdiction" as "includ[ing]" any jurisdiction that refuses to comply with 8 U.S.C. § 1373 or "willfully fail[s] to comply with other applicable federal immigration laws." *Id.* at p.2.

97. Contrary to law and express precedent, Defendants interpret § 1373 to preclude local jurisdictions from preventing their employees from asking individuals about citizenship or immigration status information or limiting sharing of non-immigration status information (such as custody status, release date, and contact information) with immigration authorities.

98. Consistent with the enforcement directive in Executive Order 14,159 and the Bove Memo, the Bondi Memo provides that state and local actors "may not" "fail to comply with lawful immigration-related directives." Ex. C at p.3. It also states that jurisdictions with policies that "impede lawful federal immigration operations" will be challenged. efforts to enforce immigration law." *Id.*

99. The Memo then repeats the instruction to DOJ staff to investigate and prosecute such conduct under 18 U.S.C. § 371 and 8 U.S.C. §§ 1324 and 1373, and for the Sanctuary Cities Enforcement Working Group to bring legal actions challenging sanctuary policies. *Id.*

C. DOJ Takes Enforcement Action Against Sanctuary Jurisdictions

100. The enforcement directive in Executive Order 14,159, and the Bove and Bondi Memos, are not idle threats.

101. On February 6, 2025 the United States filed a lawsuit against the State of Illinois, the City of Chicago, Cook County, and various local officials alleging that these jurisdictions' laws violated federal law. Compl., *United States v. State of Illinois*, ECF No. 1, No. 25-cv-01285 (N.D. Ill.) (*Illinois* Compl.). The lawsuit explicitly invokes Executive Order 14,159. *Illinois* Compl. ¶ 1.

102. The lawsuit reveals the sheer breadth of power that Defendants claim they can assert over state and local policies, despite court orders and precedent to the contrary.

103. The federal government's complaint challenges provisions of the Illinois jurisdictions' laws that prohibit state and local officials from (1) detaining an individual on the basis of a detainer or civil administrative warrant, *Illinois* Compl. ¶ 42, 48, 54; (2) assisting with federal civil immigration

enforcement or detaining individual for federal civil immigration violations, *id.* ¶ 43; (3) inquiring about the citizenship or immigration status of any individual, *id.* ¶ 44; (4) providing immigration authorities access to individuals in local custody for investigative interviews, *id.* ¶ 48; and (5) providing immigration authorities with information regarding an individual's release date, *id.* ¶ 48; *see generally id.* ¶¶ 8–10.

104. The federal government asserts that such provisions violate 8 U.S.C. § 1373 because, *inter alia*, they (1) prevent state and local actors from expending resources to respond to immigration enforcement inquiries about "custody status, release date, or contact information," and (2) preclude local officials from requesting or maintaining the immigration status of any individual. *Id.* ¶ 66.

105. The government further asserts that provisions of these jurisdictions' laws violate federal law, including the Supremacy Clause, by limiting compliance with immigration detainers or civil administrative warrants, limiting access to individuals in local custody, and limiting the sharing of personal and release date information with immigration authorities. *Id.* ¶¶ 68–70.

106. As discussed above, Plaintiffs have many of the same policies that the federal government claims to be illegal or unconstitutional. *See* Part I, *supra*.

III. Defendants' Actions are Blatantly Unconstitutional and Violate Federal Law

A. Tenth Amendment

107. The Tenth Amendment provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

108. This provision prohibits the federal government from "commandeering" state and local officials to help enforce federal law. *See Printz v. United States*, 521 U.S. 898 (1997); *New York v. United States*, 505 U.S. 144 (1992). This doctrine recognizes that the federal government has limited enumerated powers, and does not have "the power to issue direct orders to the governments of the States." *N.J. Thoroughbred Horsemen's Ass'n v. NCAA*, 584 U.S. 453, 471 (2018).

109. Under the anti-commandeering doctrine, "the Federal Government may not compel the States to implement, by legislation or executive action, federal regulatory programs." *Printz*, 521 U.S. at 925. Otherwise, the federal government could invade the sovereign power reserved to the states and

simply "shift[] the costs of regulation to the States." *N.J. Thoroughbred Horsemen's Ass'n*, 584 U.S. at 474.

110. The Executive Order and the Bondi Memo's restrictions on federal funding and threats of civil and criminal enforcement violate the anti-commandeering principle inherent in the Tenth Amendment by effectively coercing state and local governments to administer and enforce federal law.

111. First, as discussed further below, the Executive Order and Bondi Memo commandeer state and local governments by attempting to use the Spending Power to coerce them into acting as arms of the federal government.

112. Second, the Executive Order and Bondi Memo compel state and local jurisdictions to administer federal immigration law, on penalty of civil and criminal enforcement.

113. Executive Order 14,159 directs the Attorney General and DHS to undertake civil and criminal enforcement actions against any jurisdiction for practices that they deem, in their discretion, to "interfere with the enforcement of Federal law."

114. The Bove Memo, which implements Executive Order 14,159, states that "prohibiting disclosures of information to federal authorities engaged in immigration-enforcement activities" "impede[s] Executive Branch immigration initiatives" and directs the Sanctuary Cities Enforcement Working Group to take legal action to challenge "state and local laws, policies, and activities that are inconsistent with Executive Branch immigration initiatives." It also states that local officials who fail to comply with "lawful immigration related commands and requests" violate federal law. The memo directs that DOJ employees investigate "incidents involving such misconduct" for criminal prosecution under 8 U.S.C. § 371 and 18 U.S.C. §§ 1324 and 1373.

115. The Bondi Memo further affirms Defendants' view that local jurisdictions that fail to respond to immigration-related "directives" violate federal law and impede federal immigration operations and reiterates Defendants' commitment to seek criminal and civil legal sanction against such jurisdictions.

116. As the federal government's lawsuit against the State of Illinois, the City of Chicago, and Cook County demonstrates, Defendants seek to compel localities, including Plaintiffs, to enforce federal immigration laws, including using local resources to hold individuals pursuant to civil

immigration detainers and administrative warrants and to share confidential personal information, such as release dates for individuals in custody, with immigration authorities.

117. By limiting the use of local resources in aiding the execution of federal civil immigration enforcement, Plaintiffs have exercised lawful authority reserved to them under the Tenth Amendment. Defendants' actions—compelling state and local governments to enforce and administer federal immigration law at the behest of the federal government under threat of civil and criminal punishment and the withholding of critical funding—violates the Tenth Amendment.

118. The Ninth Circuit has held that nothing in the Supremacy Clause or in any federal statute imposes an obligation on state or local governments to enforce federal immigration laws, and that to hold otherwise would violate the Tenth Amendment. *See United States v. California*, 921 F.3d at 890–91 (involving a challenge to SB 54, a California law that limits cooperation with immigration enforcement). In direct response to Defendants' assertions that limiting local cooperation with immigration enforcement may frustrate the federal government's immigration enforcement, the Ninth Circuit held:

> SB 54 may well frustrate the federal government's immigration enforcement efforts. However, whatever the wisdom of the underlying policy adopted by California, that frustration is permissible, because California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts. The United States stresses that, in crafting the INA, Congress expected cooperation between states and federal immigration authorities. That is likely the case. But when questions of federalism are involved, we must distinguish between expectations and requirements. In this context, the federal government was free to expect as much as it wanted, but it could not *require* California's cooperation without running afoul of the Tenth Amendment. *Id.*

B. Separation of Powers

119. By purporting to restrict funds to sanctuary jurisdictions, the Executive Order and the Bondi Memo seek to exercise spending power that Article I, Section 8 of the Constitution grants exclusively to Congress.

120. The Executive Order violates the separation of powers by creating a penalty for limiting cooperation with immigration enforcement that Congress did not authorize, without regard to statutory rules on grant programs put in place by Congress.

121. The Bondi Memo likewise violates the separation of powers by conditioning federal funding administered by DOJ on compliance with "applicable federal immigration law," without regard to statutory rules on DOJ grant programs enacted by Congress.

122. Through the Executive Orders and the Bondi Memo, Defendants also effectively legislate a new sanction for failing to comply with the Executive Branch's immigration enforcement priorities. The unilateral imposition of this new sanction and condition on spending is not supported by the INA, or any other act of Congress, or by the Constitution.

123. Defendants may not unilaterally impose new restrictions on jurisdictions' eligibility for federal funding. Any restriction on eligibility for federal funds must be imposed—clearly, unambiguously, and in advance—by Congress. *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981). When Congress has not imposed such a restriction by statute, the President may not do so by fiat. The President does not have "unilateral power to change the text of duly enacted statutes." *Clinton v. City of New York*, 524 U.S. 417, 447 (1998).

124. Congress has consistently and repeatedly rejected the imposition of funding restrictions for sanctuary jurisdictions that limit cooperation with federal civil immigration enforcement. *See City & Cnty. of S.F.*, 897 F.3d at 1234 n.4 (listing numerous failed Congressional bills to withhold funds from sanctuary jurisdictions); *see also* No Bailout for Sanctuary Cities Act, H.R. 5717, 118th Cong. (2024); Stop Dangerous Sanctuary Cities Act, S. 3452, 117th Cong. (2021); Mobilizing Against Sanctuary Cities Act, H.R. 94, 117th Cong. (2021); No Tax Breaks for Sanctuary Cities Act, H.R. 894, 117th Cong. (2021); Ending Sanctuary Cities Act of 2021, H.R. 3195, 117th Cong. (2021). Where the President "takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb." *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637 (1952) (Jackson, J., concurring).

125. By imposing conditions or limitations on federal spending without express statutory authority, the Executive Order and Bondi Memo also unlawfully exceed the President's powers under other provisions of the Constitution that establish the separation of powers among the branches of our government, including: (i) the President's obligation to "take Care that the Laws be faithfully executed," U.S. Const. art. II, § 3, cl. 5 (Take Care Clause), and (ii) the limitation that Congressional

enactments must "be presented to the President of the United States," who then may sign that enactment or veto it, but has no power to merely revise it, either upon presentment or after enactment, U.S. Const. art. I, § 7, cls. 2-3 (Presentment Clause).

126. The Ninth Circuit has held that the President violates the constitutional separation of powers by attempting to withhold federal funds from jurisdictions that limit cooperation with ICE where Congress has not tied such funding to compliance with immigration enforcement or delegated authority to the Executive to impose such conditions. *See City & Cnty. of S.F.*, 897 F.3d at 1234–35 (upholding injunction against Executive Order 13,768 on separation-of-powers grounds).

C. Spending Clause

127. Further, the Executive Order and Bondi Memo purport to exercise spending power in ways that even Congress could not.

128. First, Defendants' actions violate the Spending Clause by imposing vague new funding conditions on existing appropriations of federal funds. "[I]f Congress intends to impose a condition on the grant of federal moneys, it must do so unambiguously," in advance. *Pennhurst*, 451 U.S. at 17. "The legitimacy of Congress' power to legislate under the spending power . . . rests on whether the State voluntarily and knowingly accepts" Congress's conditions. *Id.* "There can, of course, be no knowing acceptance if a State is unaware of the conditions or is unable to ascertain what is expected of it." *Id*. Once a State has accepted funds pursuant to a federal spending program, the Federal government cannot alter the conditions attached to those funds so significantly as to "accomplish[ ] a shift in kind, not merely degree." *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 584 (2012).

129. Defendants' actions also violate the Spending Clause by imposing funding conditions that are not germane to the purpose of the funds. "[T]he imposition of conditions under the spending power" must be "germane" or "related" to the purpose of federal funding. *South Dakota v. Dole*, 483 U.S. 203, 208-09 & n.3 (1987); *see also Massachusetts v. United States*, 435 U.S. 444, 461 (1978). Here, Defendants have conditioned eligibility for federal funding on compliance with Defendants' immigration enforcement priorities and efforts, without regard to whether that purpose is germane to any federal funds at issue.

130. In addition, Defendants' actions impose conditions so severe that they "cross[] the line distinguishing encouragement from coercion." *Sebelius*, 567 U.S. at 579 (opinion of Roberts, C.J.); *New York*, 505 U.S. at 175. The Executive Order's conditioning of all funding on compliance with the federal government's demands regarding cooperation with its civil immigration enforcement efforts "is much more than 'relatively mild encouragement'—it is a gun to the head." *Sebelius*, 567 U.S. at 581 (opinion of Roberts, C.J.). *See* Part IV.B, *infra*. Threats of this magnitude, and to such critical programs, constitute "economic dragooning that leaves the States with no real option but to acquiesce" to federal dictates. *Id*. at 582.

131. Finally, by compelling state and local jurisdictions to enforce immigration laws, Defendants seek to impose conditions that would require Plaintiffs to act unconstitutionally. Under the Fourth Amendment, generally, detention of an individual must be supported by a determination of probable cause. *See Morales*, 793 F.3d at 215–17; *Miranda-Olivares*, 2014 WL 1414305. Requiring state and local governments to establish blanket policies of compliance with immigration detainers could thus cause them to violate the Fourth Amendment. But Congress's spending power "may not be used to induce the States to engage in activities that would themselves be unconstitutional." *Dole*, 483 U.S. at 210. And state and local governments, generally lack authority to make warrantless arrests under the Federal government's civil immigration laws. *See Arizona v. United States*, 567 U.S. 387, 408 (2012).

D. Due Process

132. The Fifth Amendment protects against federal laws that are so vague they fail to provide fair notice of what is prohibited or so standardless that they permit discriminatory enforcement. *United States v. Williams*, 553 U.S. 285, 304 (2008).

133. Under the Fifth Amendment, the federal government may not work a deprivation of money or property without due process of law.

134. Executive Order 14,159 and the Bondi Memo fail to meaningfully define key terms underlying their enforcement, including "sanctuary jurisdictions," "Federal funds," or "practices that interfere with the lawful exercise of Federal law." Having such a "practice" subjects a jurisdiction to

"criminal or civil" enforcement action, yet what such a practice might be is left undefined, and therefore subject to executive whim.

135. Similarly, Executive Order 14,159 and the Bondi Memo deny procedural due process because they grant the Executive Branch unfettered, undefined, and standardless discretion to withhold funds from "sanctuary jurisdictions" in which those jurisdictions have a cognizable property interest.

136. The lack of definition, notice, or procedures associated with designation as a "sanctuary jurisdiction" and the withholding of funding pose obvious constitutional infirmities, especially in an environment in which DOJ is now prosecuting jurisdictions for their non-cooperation ordinances and policies.

E. Administrative Procedure Act

137. The Administrative Procedure Act ("APA") governs the process of federal agency decision-making. Defendant DOJ is an "agency" as defined in the APA, 5 U.S.C. § 551(1), and the Bondi Memo is therefore an agency action subject to review under the APA. Defendant DOJ's action in promulgating the Bondi Memo violates the APA in numerous respects.

138. As discussed above, Defendant DOJ's action is in excess of statutory authority and contrary to fundamental constitutional principles. *See* 5 U.S.C. § 706(2)(B), (C).

139. In addition, the APA prohibits agency actions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). The Bondi Memo is an abuse of discretion and not in accordance with law because it is unsupported by constitutional or statutory authority.

140. In addition, the Bondi Memo is arbitrary and capricious because it fails entirely to offer a reasonable explanation for the breadth of funding withheld and the basis for withholding funds already appropriated, and fails entirely to consider the reasonable and inevitable reliance by Plaintiffs on now-suddenly frozen funding, the expectation of reimbursement from already appropriated funds, and the need for clarity by local governments about funding streams to provide day-to-day services relied on by their citizens.

IV. Plaintiffs Face Serious Harm from Defendants' Unconstitutional and Unlawful Actions

A. Plaintiffs Each Have Laws and Policies That Defendants Consider "Sanctuary" Policies

141. Executive Order 14,159 defines sanctuary jurisdictions as any jurisdiction that "seek[s] to interfere with the lawful exercise of Federal law enforcement operations."

142. The Bove Memo concludes that limiting compliance with federal "immigration enforcement initiatives" and "requests," and "prohibiting disclosures of information" to immigration authorities, impedes federal civil immigration enforcement and violates federal law.

143. The Bondi Memo defines sanctuary jurisdictions as any jurisdictions that "refuse to comply with 8 U.S.C. § 1373" or other "applicable federal immigration laws." It concludes that jurisdictions must comply with applicable "immigration-related directives."

144. The *Illinois* lawsuit makes clear that for purposes of Executive Order 14,159, and consistent with the Bove and Bondi Memos, Defendants have concluded that jurisdictions violate federal law, including 8 U.S.C. § 1373, and interfere with federal immigration enforcement operations, if they limit or prohibit officials from: (1) detaining an individual on the basis of a detainer or civil administrative warrant, *Illinois* Compl. ¶ 42, 48, 54; (2) assisting with federal civil immigration enforcement or detaining an individual for federal civil immigration violations, *id.* ¶ 43; (3) inquiring about the citizenship or immigration status of any individual, *id.* ¶ 44; (4) providing immigration authorities access to individuals in local custody for investigative interviews, *id.* ¶ *48*; and (5) providing immigration authorities with information regarding an individual's release date, *id.* ¶ 48; *see generally id.* ¶¶ 8-10.

145. Plaintiffs have the kinds of laws and policies that Defendants have deemed unlawful "sanctuary" policies.

146. For example, each of Plaintiff's laws and policies limits compliance with civil immigration detainer requests or administrative warrants. Likewise, Plaintiffs each generally prohibits the use of their localities' resources to assist in federal civil immigration enforcement and restricts the disclosure to immigration authorities of personal information about any individual or compliance with a notification request for the release date of someone in custody, except in very limited circumstances.

B. Plaintiffs Face Devastating Budgetary Injury

147. The Bondi Memo expressly threatens Plaintiffs with the loss of federal funds that they use to provide essential services for supporting children and families, law enforcement activities and agencies and victims of violent crimes in their communities. The threatened cuts are unrelated to immigration enforcement and run counter to the goals of public safety sought to be advanced by the Administration and would have far reaching consequences. Plaintiffs face immediate injury from DOJ's freezing of federal funds and its withholding and condition of federal funding on local cooperation with federal immigration policies.

1. San Francisco

148. In Fiscal Year 2024-25, San Francisco received at least $8.7 million in funds administered by the DOJ, either directly or through state pass-through funding. These funds support a myriad of critical public safety and other services, including:

- San Francisco's District Attorney's Office Victim Witness Program from the Department of Justice, Office for Victims of Crimes pursuant to the Victims of Crime Act of 1984, 34 U.S.C. § 20103(a) and (b), that supports San Francisco in providing comprehensive services to victims and survivors of all types of violent crime;
- The San Francisco Police Department Regional Vehicle Interdiction Desk Project, a multijurisdictional project to combat carjacking. The law enforcement activities funded by this grant include tactical casework in support of carjacking investigations and prosecutions and use of carjacking vehicles in organized crime;
- Law Enforcement Assisted Diversion, an innovative approach that seeks to accomplish the goals of reduced criminal behavior and improved public safety by connecting appropriate low-level drug offenders with services;
- Focused Drug Deterrence, short-and-long term proactive activities including targeted investigations and enforcement and social network analysis to increase the identification of individuals involved in high-level drug markets;
- Drug Court Prosecution, which seeks to connect criminal defendants who suffer from a substantial substance abuse problem to treatment services in the community in order to

enhance public safety, reduce recidivism, and to find appropriate dispositions to the criminal charges;

- Targeted Drug Treatment for Underserved Populations, a treatment intervention conducted by the Sheriff's Department for individuals in custody;
- Intensive Probation Supervision, a targeted caseload of probationers with substance abuse and/or mental health issues;
- Reentry Social Work through the Public Defender's Office, which provides legal and wraparound support to help indigent clients charged with felony drug cases and other felony offenses successfully exit the criminal justice system;
- Citywide Justice-Involved Youth Planning, which examines current criminal justice trends impacting youth and young adults and strengthens partnerships and collaboration at various levels to create a continuum of support for youth and young adults.

149. These programs are funded by grants that are statutorily authorized by Congress, which did not impose immigration-related conditions upon the award or use of the funds. See e.g., 42 U.S.C. § 3752(a)(5)(D) (Byrne JAG provisions directing that recipients simply must use funds for a program or activity that falls within one of the several statutory purposes, and certify that they will "comply with all provisions of this [statutory] part and all other applicable Federal laws."); see also Victims of Crime Act authorizing Victim Witness Program grants 34 U.S.C. § 20103 ("Subject to the availability of money in the Fund, the Director shall make an annual grant from any portion of the Fund made available...")

150. San Francisco currently faces a significant budget deficit for FY 2026 and 2027 and the Mayor has directed City departments to propose ongoing cuts of 15% from their general fund budgets. The federal funds frozen by the Bondi Memo and subject to unlawful immigration-related conditions are funds that are currently anticipated and relied upon by San Francisco. The expectation for these funds is part of San Francisco's currently approved budget and even if it were to immediately cease all activities by laying off staff and notifying contractors to stop work, San Francisco would still be obligated to pay for work done, adding to its current budget shortfall. If San Francisco were deprived of its DOJ funding, it would be forced to make difficult choices on sustaining the DOJ-funded

programs that serve children, crime victims, and critical law enforcement services through local funding sources or cutting these or other critical services.

151. The Executive Order threatens an even greater impact on San Francisco's fiscal situation. San Francisco's current budget includes nearly $3.1 billion in federal funds for a myriad of critical services such as health care reimbursement, housing, capital projects, emergency services, and public infrastructure. Losing all, or even a fraction, of that amount would trigger a fiscal crisis that would require drastic reductions in critical municipal services.

2. Santa Clara

152. Upon information or belief, Santa Clara estimates that it receives $6 to $7 million in grants that originate with DOJ, either directly or passed through the State of California. This DOJ funding supports a range of important programs and services provided by Santa Clara's Office of the Sheriff, Office of the District Attorney, Probation Department, and other departments and agencies to crime victims, child abuse survivors, justice-involved youth, and the entire Santa Clara County community. These programs and services include, but are not limited to:

- Direct services to trafficking survivors and other victims of crime;
- The Psychiatric Emergency Response Team, which is a joint effort among Santa Clara's Behavioral Health Services Department and law enforcement agencies in which multidisciplinary law enforcement and clinician teams respond to 911 calls that involve both a mental health crisis and a law enforcement issue;
- Data analysts for the Office of the District Attorney's Gun Related Intelligence Program, which uses ballistic evidence to link shootings and solve gun crimes, through DOJ's Crime Gun Intelligence Center grant;
- Services of Santa Clara's Crime Laboratory, an internationally accredited forensic laboratory that handles controlled substance analysis, firearms examination, latent fingerprint processing, digital evidence, fire debris and explosives analysis, DNA and toxicology analysis, and more, through DOJ's Paul Coverdell Forensic Science Improvement Grants Program, which supports improvements in forensic science; and DOJ's DNA Capacity Enhancement for Backlog

Reduction Program, which aims to increase the capacity of government-run forensic laboratories to process DNA samples and reduce backlogs that delay justice;

- Through DOJ's Improving the Investigation and Prosecution of Child Abuse and the Regional and Local Children's Advocacy Centers Program, efforts to improve techniques for investigating and prosecuting child abuse; to enhance coordination among community-based providers and law enforcement, child welfare, and medical and mental health professionals involved in investigation, prosecution, intervention, and prevention work; and to serve child abuse victims and their non-offending family members through Santa Clara's Children's Advocacy Center; and
- Services to improve public safety and reach youth involved in serious violent or weapons-related crimes, as well as youth at risk of justice involvement—including a collaboration with the University of Cincinnati Corrections Institute to implement a phased process of youth-centered design and programming enhancements at the Probation Department's a rehabilitative youth facility, with associated training and coaching for Probation staff.

153. Not a single one of these programs relates to immigration enforcement or any community member's immigration status. Instead, they relate more broadly to protecting the entire Santa Clara County community—including vulnerable children, trafficking victims, and sexual assault survivors—from harm; and enhancing the ability of local police agencies and prosecutors to do their core work of preventing and addressing crime.

154. Santa Clara, like entities across California and the nation, is facing budget deficits. To meet Santa Clara's obligation to deliver a balanced budget, Santa Clara's departments, agencies, and executive leadership made very difficult choices in the most recent fiscal year to close a $250 million budget deficit while maintaining critical services for the community. If Santa Clara were deprived of its DOJ funding, it would struggle to sustain its DOJ-funded programs that serve children, crime victims, and vitally important forensic and law enforcement services through local funding sources. It would be forced to make impossible choices about cutting either these programs, or the other safety-net programs that Santa Clara provides.

155. Beyond the millions of dollars of funding immediately threatened by the Bondi Memo, the Executive Order, which is not expressly limited to DOJ grant dollars, threatens the approximately $3.5 billion in total federal funding that Santa Clara County received or will receive in the current fiscal year. In total, federal funding comprises 31 percent of Santa Clara County's revenue.

156. These funds support healthcare, safety-net programs and social services for children and families, and other essential government functions, such as public health, infrastructure, emergency response and public safety. Many of the program supported by federal funds require Santa Clara to advance the cost of services before seeking reimbursement from the federal government. Without these federal funds, Santa Clara would be forced to make extraordinary cuts to critical services—and in some cases totally eliminate key services and functions. The elimination, or even reduction, of federal funding would require Santa Clara to fundamentally and globally reallocate funds and services.

157. Because Santa Clara is continuing to operate federally-funded programs on a daily basis, it needs to know whether to (1) continue incurring hundreds of millions of dollars in costs that may never be reimbursed by the federal government, (2) discontinue basic safety-net services delivered to its most vulnerable residents, or (3) in an attempt to avoid either of these outcomes, be effectively conscripted into using local law enforcement and other resources to assist the federal government in its immigration enforcement efforts.

3. Portland

158. Today, the City of Portland has over $10 million in 12 active grants from different Department of Justice grant programs. This funding has already been awarded to Portland, but most of it has not yet been disbursed. Among these threatened grants are funding for essential services under the Byrne JAG program and the National Sexual Assault Kit Initiative (SAKI) – which is supporting Portland's effort to tackle its backlog of rape kits for victims of sexual assault. This funding is critical to maintaining public safety.

159. In total, Portland currently has over $340 million in awarded federal grants which may be implicated by the Executive Order's broad sweeping scope.

160. In addition, Portland faces a potential $100M budget shortfall for fiscal year 2025-2026. The Mayor and City Council are actively working to budget during these very difficult financial times. As city leaders and employees work to ensure essential services continue for its residents, even a temporary pause could cause untold harm. The federal government's threats to not only limit future funding, but to stop funding or renegotiate hundreds of millions of dollars in grants that the city has already been awarded only exacerbates the already serious budget crisis.

4. King County

161. The 2025 King County operating budget includes roughly $200 million in federal funding for operations. An additional $500 million is allocated to multi-year capital projects. Federal grants and appropriations fund numerous critical public safety projects and include ear-marked funds designated by congress for anti-terrorism counter measures related to the 2026 World Cup. The loss of this funding based on King County's decision to limit cooperation with federal civil immigration enforcement would have a devastating impact on public safety and emergency preparedness.

162. Defendant Bondi's purported freeze on DOJ funds directly impacts King County. Currently, the county has approximately $5.5 million in direct and indirect funding from the DOJ including over $3 million in funding for local law enforcement initiatives. King County also has plans to seek future DOJ grants to enhance both public safety and officer safety. DOJ's actions in freezing existing grant funds and precluding King County from future grants is especially impactful in the current budget cycle, where King County is facing a substantial short fall in its general fund. DOJ's actions, if allowed to proceed, will directly and negatively impact public safety by decreasing resources precisely when they are needed the most.

5. New Haven

163. New Haven relies heavily on federal funding to deliver public services.

164. Over the last few years, New Haven has received approximately $104,222,265 in direct federal grants.

165. New Haven also relies specifically on funding from DOJ, with $6,409,071 in DOJ federal grants awarded over the last few years. These funds support critical public safety needs, including various violence prevention programs, improved training and equipment for police officers,

mental health professionals to work with police officers in crisis response, purchase and installation of public safety technology and safety gear for police protection, and other public-safety related initiatives.

166. The freezing and withholding of these funds based on New Haven's decision to limit local involvement in federal civil immigration enforcement will have a grave impact on New Haven's ability to keep its residents safe.

C. Plaintiffs Face Operational Harms in Serving Their Communities

167. Despite court orders and precedent foreclosing Defendants' understanding of the law, Defendants' actions have fostered an atmosphere of fear and distrust between undocumented immigrants and local government officials in Plaintiffs' jurisdictions. The threats of criminal and civil prosecution leveled at local officials, combined with recent ICE activity in Plaintiffs' communities, and compounded by the Trump Administration's statements about immigration enforcement, have also generated a maelstrom of fear and confusion and have left local agencies unsure of whether efforts to serve the undocumented community will be treated as grounds for prosecution.

168. By heightening undocumented immigrants' concerns that any interaction with local officials will lead to their information being turned over to ICE, the Executive Order discourages undocumented immigrants from reporting crimes, seeking public health services, and otherwise engaging with programs and services provided by Plaintiffs. This threat harms public safety, public health, and Plaintiffs' ability to act in what they have determined to be the best interest of their residents, consistent with federal and state law.

169. The Executive Order undermines Plaintiffs' ability to provide critical services not just to undocumented immigrants, but to all residents. When witnesses and crime victims will not talk to the police, law enforcement suffers and the entire community is less safe. When children are not vaccinated or the sick are not treated for communicable diseases, illness spreads throughout the community.

170. At the same time, the repeated threats of criminal and civil prosecution, in the Executive Order, the Bove and Bondi Memos, and in repeated statements from Trump Administration

officials, has left local officials fearful that complying with Plaintiffs' laws and serving undocumented residents will subject them to civil or criminal prosecution.

171. These threats and fears fall disproportionately on public servants on the front lines of providing critical public safety and public health needs for residents of Plaintiffs' jurisdictions. For example, the Executive Order and the Bondi Memo have already started to cause confusion and harm to Portland. Portland and its employees are required to follow both Oregon and federal law. Threats of prosecution impact front-line workers—police officers, firefighters, front desk staff at community centers—who will be required to make decisions in an interaction with immigration-enforcement officers that is consistent with all those laws. Threats of prosecution by the DOJ do nothing to resolve the legal and policy disputes between local leaders and the federal government. Instead, they instill fear and uncertainty in public servants—employees simply trying to do their jobs consistent with the laws.

172. Portland has been forced to consider ways to protect and assist such employees, promulgate additional guidance, and manage confusion surrounding the Executive Orders and the Bondi Memo.

173. Similarly, Defendants' threats to prosecute employees of so-called sanctuary jurisdictions has caused considerable distress and consternation within the King County work force. King County has been forced to dedicate resources toward creating and adopting new protocols to mitigate the federal threat to frontline workers while continuing to enforce KWW and KCC 2.15. King County has expended sums placing a federal criminal defense attorney on retainer in anticipation of a federal prosecution.

174. These operational concerns are further exacerbated by the federal government's lawsuit against the State of Illinois, the City of Chicago, and Cook County challenging many of the very same requirements that officials in Plaintiffs' jurisdictions are required to comply with under applicable local laws.

CAUSES OF ACTION
COUNT ONE
TENTH AMENDMENT

175. Plaintiffs repeat and incorporate by reference each allegation of the prior paragraphs as if fully set forth herein.

176. The Tenth Amendment provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." U.S. Const., amend X. This provision prohibits the federal government from "commandeering" state and local officials to help enforce federal law. *See Printz*, 521 U.S. at 925 ("the Federal Government may not compel the States to implement, by legislation or executive action, federal regulatory programs.").

177. Neither the Supremacy Clause, the INA, nor any federal statute displaces Plaintiffs' Tenth Amendment interest in refraining from deploying local resources to enforce federal immigration law. *United States v. California*, 921 F.3d at 890–91.

178. As described above and in the Third Cause of Action below, Defendants violate the Tenth Amendment and seek to commandeer Plaintiffs because Executive Order 14,159 and the Bondi Memo attempt to use the spending power to coerce them into acting as arms of the federal government.

179. The Executive Order and the Bondi Memo also require Plaintiffs to enforce federal immigration law—including using local resources to hold individuals pursuant to civil immigration detainers and administrative warrants and share confidential personal information, including release dates for individuals in custody, with immigration authorities—on penalty of civil or criminal prosecution.

180. By restricting funding and directing enforcement against Plaintiffs for limiting cooperation with federal immigration authorities, Defendants seek to commandeer Plaintiffs in furtherance of a federal regulatory program in violation of the Tenth Amendment to the United States Constitution.

COUNT TWO

SEPARATION OF POWERS

181. Plaintiffs repeat and incorporate by reference each allegation of the prior paragraphs as if fully set forth herein.

182. The Constitution vests Congress with legislative powers, see U.S. Const. art. 1, § 1, and the spending power, see U.S. Const. art. 1, § 8, cl. 1. Absent a statutory provision or an express delegation, only Congress is entitled to attach conditions to federal funds.

183. "The Framers viewed the legislative power as a special threat to individual liberty, so they divided that power to ensure that 'differences of opinion' and the 'jarrings of parties' would 'promote deliberation and circumspection' and 'check excesses in the majority.'" *Seila Law LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 223 (2020) (quoting The Federalist No. 70, at 475 (A. Hamilton) and citing *id.*, No. 51, at 350).

184. "As Chief Justice Marshall put it, this means that 'important subjects . . . must be entirely regulated by the legislature itself,' even if Congress may leave the Executive 'to act under such general provisions to fill up the details.'" *West Virginia v. EPA*, 597 U.S. 697, 737 (2022) (Gorsuch, J., concurring) (quoting *Wayman v. Southard*, 10 Wheat. 1, 42–43, 6 L.Ed. 253 (1825)).

185. The separation of powers doctrine thus represents perhaps the central tenet of our constitution, *see, e.g.*, *Trump v. United States*, 603 U.S. 593, 637–38 (2024); *West Virginia v. EPA*, 597 U.S. at 723–24, *Seila Law LLC*, 591 U.S. at 227, and consistent with these principles, the executive acts at the lowest ebb of his constitutional authority and power when he acts contrary to the express or implied will of Congress. *Youngstown Sheet & Tube Co.*, 343 U.S. at 637 (Jackson, J., concurring).

186. Pursuant to the separation of powers doctrine, the Executive Branch may not "claim[] for itself Congress's exclusive spending power, . . . [or] coopt Congress's power to legislate." *City & Cnty. of S.F.*, 897 F.3d at 1234.

187. Congress has not conditioned the provision of federal funding on compliance with Defendants' immigration enforcement policies and requests.

188. Congress has not delegated to Defendants the authority to impose immigration-enforcement conditions on federal funds.

189. Through Executive Order 14,159 and the Bondi Memo, Defendants are unilaterally imposing new conditions on federal funding without authorization from Congress.

190. In addition, through these actions, Defendants are legislating new sanctions for failure to comply with immigration enforcement authorities that are unsupported by any act of Congress, including under the INA, or by the Constitution.

191. For these reasons, Defendants' conditioning of federal funding on local governments' cooperation with immigration enforcement violates principles of separation of powers.

COUNT THREE
SPENDING CLAUSE

192. Plaintiffs repeat and incorporate by reference each allegation of the prior paragraphs as if fully set forth herein.

193. The Spending Clause of the U.S. Constitution provides that "Congress"—not the Executive—"shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States . . . ." U.S. Const. art. I,§ 8, cl. 1.

194. As described above, Defendants violate separation of powers principles because the funding restrictions in Executive Order 14,159 and the Bondi Memo are not authorized by Congress, expressly or impliedly, and therefore violate the Spending Clause as well.

195. Even if Congress had delegated its authority to impose conditions on federal funds, the funding restrictions in Executive Order 14,159 and the Bondi Memo would violate the Spending Clause by:

a. imposing conditions that are ambiguous, *see Pennhurst*, 451 U.S. at 17 ("The legitimacy of Congress' power to legislate under the spending power…rests on whether the State voluntarily and knowingly accepts [Congress' conditions]… There can, of course, be no knowing acceptance if a State is unaware of the conditions or is unable to

ascertain what is expected of it…[I]f Congress intends to impose a condition on the grant of federal moneys, it must do so unambiguously.");

b. imposing conditions that are not germane to the stated purpose of the [program name] funds, see *Dole*, 483 U.S. at 207 ("[C]onditions on federal grants might be illegitimate if they are unrelated 'to the federal interest in particular national projects or programs.'");

c. imposing conditions that are so severe as to coerce Plaintiffs, *see Sebelius*, 567 U.S. at 579 (opinion of Roberts, C.J.) (Congress may not impose conditions so severe that they "cross[] the line distinguishing encouragement from coercion."); and

d. imposing conditions that would require Plaintiffs to act unconstitutionally by detaining individuals based on civil detainers without a finding of probable cause, *Dole*, 483 U.S. at 210 (Congress's spending power "may not be used to induce the States to engage in activities that would themselves be unconstitutional.").

COUNT FOUR

FIFTH AMENDMENT DUE PROCESS: VOID FOR VAGUENESS

196. Under the Fifth Amendment to the United States Constitution, a federal law is unconstitutionally vague if it "fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement." *Williams*, 553 U.S. at 304.

197. The constitutional vagueness standard applies with full force to executive orders. *See United States v. Soussi*, 316 F.3d 1095, 1101 (10th Cir. 2002). When an executive order contains terms that are not "susceptible of a clear meaning," nor "mitigate the vagueness of the term by supplying any definition," then the provision "lends itself to subjective interpretation" and is unconstitutional. *Humanitarian Law Project v. U.S. Dep't of Treasury*, 463 F. Supp. 2d 1049, 1070 (C.D. Cal. 2006).

198. Section 17 of Executive Order 14,159, which refers to "sanctuary jurisdictions," fails to meaningfully define key terms, such as "sanctuary jurisdictions," "Federal funds," or "practices that interfere with the lawful exercise of Federal law." 90 Fed. Reg. at 8446. Nonetheless, having such a "practice" subjects a jurisdiction to "criminal or civil" actions, which could be draconian in nature. *Id.*

What such a practice might be is left undefined, and subject to the Executive Branch's unbridled discretion.

199. While court orders and precedent clearly define the limits of what the federal government can demand, the Executive Branch has already demonstrated its eagerness to exercise this unbridled discretion to reach into states and local jurisdictions to interfere with their ordinances, operations, and processes. Such a vast, standardless, and overbroad power invites arbitrary, subjective, and discriminatory enforcement.

200. Executive Order 14,159 purports to grant the Attorney General and the Secretary of Homeland Security unfettered discretion to decide which states or local governments are "sanctuary jurisdictions" that are now subject to criminal or civil action, and will have their funding paused, terminated, and/or clawed back.

201. Other portions of Executive Order 14,159 are equally vague. Section 8, for example, requires assessment of "fines and penalties" against "aliens unlawfully present in the United States" but also anyone who "facilitate[s] such aliens' presence in the United States." 90 Fed. Reg. at 8445. It is unclear what Defendants understand "facilitate" to mean in this context, and the Order could be read to apply to employees of Plaintiffs who provide undocumented persons with basic, safety-net services, or landlords, employers, friends, family, churches or non-profit organizations that assist undocumented persons. Not only does this standardless provision exceed the President's authority by legislating through executive order, but it also encourages and sanctions arbitrary, subjective, and discriminatory enforcement.

202. The DOJ memos are equally vague and lean into the unfettered discretion purportedly granted to them by the Executive Order. The Bove Memo directs "the newly established Sanctuary Cities Enforcement Working Group … to identify state and local laws, policies, and activities that are inconsistent with Executive Branch immigration initiatives," but does not define what would be encompassed within the expansive phrase "inconsistent with Executive Branch immigration initiatives."

203. The Bondi Memo purports to define "[s]o-called 'sanctuary jurisdictions'" to "include state or local jurisdictions that refuse to comply with 8 U.S.C. § 1373, refuse to certify compliance

with § 1373, or willfully fail to comply with other applicable federal immigration laws." But this definition is circular and fails to provide any more "fair notice of what is prohibited" than Executive Order 14,159 does. *Williams*, 553 U.S. at 304. Crucially, the Memo "does not make clear what conduct might subject a state or local jurisdiction to defunding or enforcement action, making it impossible for jurisdictions to determine how to modify their conduct, if at all, to avoid … penalties." *Cnty. of Santa Clara v. Trump*, 250 F. Supp. 3d at 535. Furthermore, use of the word "include" suggests that even a jurisdiction that does comply with Section 1373 could still be considered a "sanctuary jurisdiction" subject to defunding and prosecution under Executive Order 14,159 and the Bondi Memo.

204. The lack of notice or procedure for how a local government is to be designated a "sanctuary jurisdiction" is particularly problematic when DOJ appears to have very recently taken on an expansive reinterpretation of 8 U.S.C. § 1373 that is likely contrary to how courts have interpreted the law. In other words, DOJ is now prosecuting jurisdictions for their ordinances and policies, when courts have previously held similar ordinances to be lawful and *not* in conflict with federal immigration enforcement laws. *See United States v. State of Illinois*, No. 1:25-cv-1285 (N.D. Ill. filed Feb. 6, 2025); *compare Barr*, 965 F.3d at 764 ("Plaintiffs' respective sanctuary laws comply with 8 U.S.C. § 1373."); *Steinle v. City & Cnty. of S.F.*, 919 F.3d 1154, 1164 (9th Cir. 2019) (local policy not to share release date information of an inmate who is also an alien not preempted under the plain language of 8 U.S.C. § 1373); *United States v. California*, 921 F.3d at 891 (state law restricting information sharing with federal immigration enforcement officials did not conflict with 8 U.S.C. § 1373); *see also Garland*, 42 F.4th at 1085–86 (Oregon's laws conserving use of state resources from being used to enforce federal immigration laws did not conflict with 8 U.S.C. § 1373).

205. The reversal of policy effectuated by the Bondi Memo, without explanation, and without heed to the fact that it is *not* the province of the Executive Branch to say what the law is, *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 388–89 (2024), also violates fair notice requirements of the Fifth Amendment. *See FCC v. Fox Television Stations, Inc.*, 567 U.S. 239, 254 (2012).

COUNT FIVE

FIFTH AMENDMENT DUE PROCESS: PROCEDURAL DUE PROCESS

206. Under the Fifth Amendment to the United States Constitution, the federal government may not deprive Plaintiffs of money or property without "due process of law."

207. Plaintiffs each have a constitutionally protectable property interest in the federal funds they rely on to provide essential services to their residents. Plaintiffs' property interest in those federal funds is established and governed by rules and mutually explicit understandings with the federal government.

208. Section 17 of Executive Order 14,159 and the Bondi Memo deprive the Plaintiffs of their procedural due process rights under the Fifth Amendment because they grant the Attorney General, DOJ, and the DHS Secretary unfettered discretion to "ensure that" so-called "'sanctuary jurisdictions'" do not receive access to Federal funds from the Department."

209. The Bondi Memo's thin reference that DOJ, when terminating or clawing back funds from awardees it has deemed to be sanctuary jurisdictions, "shall comply with any notice and procedural requirements in the award, agreement, or other instrument" does not insulate the Memo's defunding threats from a Fifth Amendment challenge. Notwithstanding any notice or procedures pursuant to terms of awarded funding that this sentence refers to, local jurisdictions have no way to know if or when they have been designated by the DOJ a "sanctuary jurisdiction" in the first place, or have an opportunity to be heard to dispute that designation prior to initiation of proceedings against a jurisdiction's funding or against the jurisdiction itself. *See Cnty. of Santa Clara v. Trump*, 250 F. Supp. 3d at 536.

210. Moreover, the Bondi Memo's directive to "[a]ll litigating components of the Department of Justice and each U.S. Attorneys' Office" to take action against local governments, appears designed to chill lawful ordinances and policies that limit the use of local resources to assist with federal immigration enforcement, and to coerce jurisdictions into abandoning those policies. The Bondi Memo provides no mechanism by which a state or local government may review, challenge, or even obtain notice that it has been designated a "sanctuary jurisdiction."

211. The Bondi Memo's self-serving statements that the defunding and enforcement actions contemplated will be "consistent with" the law do not shield the Administration from the Fifth Amendment. *See Doe v. Harris*, 772 F.3d 563, 580–81 (9th Cir. 2014); *see also United States v. Stevens*, 559 U.S. 460, 480 (2010) ("We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly."); *City & Cty. of S.F. v. Trump*, 897 F.3d at 1240 ("If 'consistent with law' precludes a court from examining whether the Executive Order is consistent with law, judicial review is a meaningless exercise, precluding resolution of the critical legal issues."). These statements are also likely illusory, given the several actions that the Administration has taken, particularly with respect to federal funding, since January 20, 2025 that have already been held to be unconstitutional by courts across the country. *See, e.g.*, Mem. Op. & Order, ECF No. 30, *Nat'l Council of Nonprofits* (D.D.C. Feb. 3, 2025) (TRO against OMB directive); ECF No. 50, *New York* (D.R.I. filed Jan. 28, 2025) (same); Preliminary Injunction, ECF No. 114, *State of Washington v. Trump*, No. 25-cv-00127 (W.D. Wash. Feb. 6, 2025) (granting preliminary injunction against Executive Order ending birthright citizenship for children born to certain noncitizen parents).

212. Because the Executive Order deprives the Plaintiffs of a cognizable property interest while providing no notice, no pre-deprivation opportunity to be heard, and no post-deprivation opportunity to be heard, it violates the Fifth Amendment's due process clause.

COUNT SIX

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)

(ARBITRARY AND CAPRICIOUS)

213. Plaintiffs repeat and incorporate by reference each of the allegations of the prior paragraphs as if fully set forth herein.

214. Defendant DOJ is an "agency" as defined in the APA, 5 U.S.C. § 551(1), and the Bondi Memo is an agency action subject to review under the APA.

215. Final agency actions (1) "mark the 'consummation' of the agency's decision-making process" and (2) are ones "by which 'rights or obligations have been determined,' or from which 'legal consequences will flow.'" *Bennett v. Spear*, 520 U.S. 154, 178 (1997).

216. The Bondi Memo is a final agency action because it announces a final decision to pause funding on a blanket basis at a certain time and thus marks the consummation of the DOJ's decision-making process.

217. Further, the Bondi Memo is an action determining rights or obligations or from which legal consequences will flow because it exercises a purported authority held by DOJ to stop funding directed by Congress that would be provided but for the Bondi Memo.

218. Under the APA, a "court shall . . . hold unlawful and set aside agency actions, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

219. "An agency action qualifies as 'arbitrary' or 'capricious' if it is not 'reasonable and reasonably explained.'" *Ohio v. EPA*, 603 U.S. 279, 292 (2024) (quoting *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021)). A court must therefore "ensure, among other things, that the agency has offered 'a satisfactory explanation for its action[,] including a rational connection between the facts found and the choice made.'" *Id*. (quoting *Motor Vehicle Mfrs. Assn. of United States, Inc. v. State Farm Mut. Automobile Ins. Co*., 463 U.S. 29, 43 (1983)). "[A]n agency cannot simply ignore 'an important aspect of the problem'" addressed by its action. *Id.* at 293.

220. As described above, the Bondi Memo provides no reasoned explanation for the extreme breadth of the withholding of funding to Plaintiffs or precipitous timing of that withholding.

221. The Bondi Memo provides no reasoned basis for withholding funds Congress appropriated for disbursement, including via formula grants, except to the extent they make clear that the Executive Order enacts the President's policy desires in place of Congress's intent.

222. The Bondi Memo also ignores essential aspects of the "problem" it purports to address, including the reasonable and inevitable reliance by Plaintiffs on now-suddenly frozen funding, the expectation of reimbursement from already appropriated funds, and the need for clarity by local governments about funding streams to provide day-to-day services relied on by their citizens.

223. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C. § 2201 that the Bondi Memo violates the APA because it is arbitrary and capricious; vacate the Bondi Memo

under 5 U.S.C. § 706; provide preliminary relief under 5 U.S.C. § 705; and preliminary and permanently enjoin Defendants from implementing or enforcing the Bondi Memo.

COUNT SEVEN

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)

(CONTRARY TO CONSTITUTION)

224. Plaintiffs repeat and incorporate by reference each of the allegations of the prior paragraphs as if fully set forth herein.

225. Under the APA, a "court shall . . . hold unlawful and set aside agency actions, findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(B).

226. As described above, the Bondi Memo violates bedrock constitutional provisions and principles including the separation of powers between the president and Congress, the Spending Clause, the Take Care Clause, the Presentment Clause and the Tenth Amendment.

227. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C. § 2201 that the Bondi Memo violates the APA because it is contrary to constitutional rights, powers, privileges, or immunities; vacate the Bondi Memo under 5 U.S.C. § 706; provide preliminary relief under 5 U.S.C. § 705; and preliminary and permanently enjoin Defendants from implementing or enforcing the Bondi Memo.

COUNT EIGHT

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2) (C)

(IN EXCESS OF STATUTORY AUTHORITY)

228. Plaintiffs repeat and incorporate by reference each of the allegations of the prior paragraphs as if fully set forth herein.

229. Under the APA, a "court shall . . . hold unlawful and set aside agency actions, findings, and conclusions found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

230. Defendants may exercise only authority granted to them by statute.

231. No law or provision of the Constitution authorizes DOJ to withdraw properly obligated federal funds or to impose extra-statutory conditions not authorized by Congress.

232. Defendants have no authority to withhold funding from Plaintiffs without considering the statutes, regulations, and terms governing each source of funding. The blanket freeze of DOJ funding is blatantly illegal.

233. Plaintiffs therefore ask the Court to declare under 5 U.S.C. § 706 and 28 U.S.C. § 2201 that the Bondi Memo violates the APA because it is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; vacate the Bondi Memo under 5 U.S.C. § 706; provide preliminary relief under 5 U.S.C. § 705; and preliminary and permanently enjoin Defendants from implementing or enforcing the Bondi Memo.

PRAYER FOR RELIEF

Wherefore, Plaintiffs pray that the Court grant the following relief:

1. A declaration that Section 17 of Executive Order 14,159 is unconstitutional and invalid on its face;

2. A declaration that Section 17 of Executive Order 14,159 is unconstitutional and invalid as applied to the laws and policies of Plaintiffs identified in this complaint;

3. A preliminary and permanent injunction enjoining Defendants from enforcing Section 17 of Executive Order 14,159, or taking any other action in furtherance of any withholding or conditioning of federal funds based on Section 17 of Executive Order 14,159 or taking enforcement actions against Plaintiffs based on the laws and policies identified in this complaint;

4. A preliminary and permanent injunction enjoining Defendants from implementing the funding pause or the unlawful funding conditions directed by the Bondi Memo, or taking enforcement action against Plaintiffs based on the laws and policies identified in this complaint;

5. Award Plaintiffs reasonable costs and attorneys' fees; and

6. Grant any other further relief that the Court deems fit and proper.

Dated: February 7, 2025

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FILER'S ATTESTATION

I, DAVID CHIU, am the ECF user whose identification and password are being used to file this COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF. Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that the other above-named signatories concur in this filing.

EXHIBIT A

Presidential Documents

Executive Order 14159 of January 20, 2025

Protecting the American People Against Invasion

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*) and section 301 of title 3, United States Code, it is hereby ordered:

Section 1. *Purpose.* Over the last 4 years, the prior administration invited, administered, and oversaw an unprecedented flood of illegal immigration into the United States. Millions of illegal aliens crossed our borders or were permitted to fly directly into the United States on commercial flights and allowed to settle in American communities, in violation of longstanding Federal laws.

Many of these aliens unlawfully within the United States present significant threats to national security and public safety, committing vile and heinous acts against innocent Americans. Others are engaged in hostile activities, including espionage, economic espionage, and preparations for terror-related activities. Many have abused the generosity of the American people, and their presence in the United States has cost taxpayers billions of dollars at the Federal, State, and local levels.

Enforcing our Nation's immigration laws is critically important to the national security and public safety of the United States. The American people deserve a Federal Government that puts their interests first and a Government that understands its sacred obligation to prioritize the safety, security, and financial and economic well-being of Americans.

This order ensures that the Federal Government protects the American people by faithfully executing the immigration laws of the United States.

Sec. 2. *Policy.* It is the policy of the United States to faithfully execute the immigration laws against all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people. Further, it is the policy of the United States to achieve the total and efficient enforcement of those laws, including through lawful incentives and detention capabilities.

Sec. 3. *Faithful Execution of the Immigration Laws.* In furtherance of the policies described in section 2 of this order:

(a) Executive Order 13993 of January 20, 2021 (Revision of Civil Immigration Enforcement Policies and Priorities), Executive Order 14010 of February 2, 2021 (Creating a Comprehensive Regional Framework To Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border), Executive Order 14011 of February 2, 2021 (Establishment of Interagency Task Force on the Reunification of Families), and Executive Order 14012 of February 2, 2021 (Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans) are hereby revoked; and

(b) Executive departments and agencies (agencies) shall take all appropriate action to promptly revoke all memoranda, guidance, or other policies based on the Executive Orders revoked in section 3(a) of this order and shall employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all inadmissible and removable aliens.

Sec. 4. *Civil Enforcement Priorities.* The Secretary of Homeland Security shall take all appropriate action to enable the Director of U.S. Immigration and Customs Enforcement, the Commissioner of U.S. Customs and Border Protection, and the Director of U.S. Citizenship and Immigration Services to set priorities for their agencies that protect the public safety and national security interests of the American people, including by ensuring the successful enforcement of final orders of removal. Further, the Secretary of Homeland Security shall ensure that the primary mission of U.S. Immigration and Customs Enforcement's Homeland Security Investigations division is the enforcement of the provisions of the INA and other Federal laws related to the illegal entry and unlawful presence of aliens in the United States and the enforcement of the purposes of this order.

Sec. 5. *Criminal Enforcement Priorities.* The Attorney General, in coordination with the Secretary of State and the Secretary of Homeland Security, shall take all appropriate action to prioritize the prosecution of criminal offenses related to the unauthorized entry or continued unauthorized presence of aliens in the United States.

Sec. 6. *Federal Homeland Security Task Forces.* (a) The Attorney General and the Secretary of Homeland Security shall take all appropriate action to jointly establish Homeland Security Task Forces (HSTFs) in all States nationwide.

(b) The composition of each HSTF shall be subject to the direction of the Attorney General and the Secretary of Homeland Security, but shall include representation from any other Federal agencies with law enforcement officers, or agencies with the ability to provide logistics, intelligence, and operational support to the HSTFs, and shall also include representation from relevant State and local law enforcement agencies. The heads of all Federal agencies shall take all appropriate action to provide support to the Attorney General and the Secretary of Homeland Security to ensure that the HSTFs fulfill the objectives in subsection (c) of this section, and any other lawful purpose that fulfills the policy objectives of this order.

(c) The objective of each HSTF is to end the presence of criminal cartels, foreign gangs, and transnational criminal organizations throughout the United States, dismantle cross-border human smuggling and trafficking networks, end the scourge of human smuggling and trafficking, with a particular focus on such offenses involving children, and ensure the use of all available law enforcement tools to faithfully execute the immigration laws of the United States.

(d) The Attorney General and the Secretary of Homeland Security shall take all appropriate action to provide an operational command center to coordinate the activities of the HSTFs and provide such support as they may require, and shall also take all appropriate action to provide supervisory direction to their activities as may be required.

Sec. 7. *Identification of Unregistered Illegal Aliens.* The Secretary of Homeland Security, in coordination with the Secretary of State and the Attorney General, shall take all appropriate action to:

(a) Immediately announce and publicize information about the legal obligation of all previously unregistered aliens in the United States to comply with the requirements of part VII of subchapter II of chapter 12 of title 8, United States Code;

(b) Ensure that all previously unregistered aliens in the United States comply with the requirements of part VII of subchapter II of chapter 12 of title 8, United States Code; and

(c) Ensure that failure to comply with the legal obligations of part VII of subchapter II of chapter 12 of title 8, United States Code, is treated as a civil and criminal enforcement priority.

Sec. 8. *Civil Fines and Penalties.* (a) The Secretary of Homeland Security, in coordination with the Secretary of Treasury, shall take all appropriate action to ensure the assessment and collection of all fines and penalties

that the Secretary of Homeland Security is authorized by law to assess and collect from aliens unlawfully present in the United States, including aliens who unlawfully entered or unlawfully attempted to enter the United States, and from those who facilitate such aliens' presence in the United States.

(b) Within 90 days of the date of this order, the Secretary of the Treasury and the Secretary of Homeland Security shall submit a report to the President regarding their progress implementing the requirements of this section and recommending any additional actions that may need to be taken to achieve its objectives.

Sec. 9. *Efficient Removals of Recent Entrants and Other Aliens.* The Secretary of Homeland Security shall take all appropriate action, pursuant to section 235(b)(1)(A)(iii)(I) of the INA (8 U.S.C. 1225(b)(1)(A)(iii)(I)), to apply, in her sole and unreviewable discretion, the provisions of section 235(b)(1)(A)(i) and (ii) of the INA to the aliens designated under section 235(b)(1)(A)(iii)(II). Further, the Secretary of Homeland Security shall promptly take appropriate action to use all other provisions of the immigration laws or any other Federal law, including, but not limited to sections 238 and 240(d) of the INA (8 U.S.C. 1228 and 1229a(d)), to ensure the efficient and expedited removal of aliens from the United States.

Sec. 10. *Detention Facilities.* The Secretary of Homeland Security shall promptly take all appropriate action and allocate all legally available resources or establish contracts to construct, operate, control, or use facilities to detain removable aliens. The Secretary of Homeland Security, further, shall take all appropriate actions to ensure the detention of aliens apprehended for violations of immigration law pending the outcome of their removal proceedings or their removal from the country, to the extent permitted by law.

Sec. 11. *Federal-State Agreements.* To ensure State and local law enforcement agencies across the United States can assist with the protection of the American people, the Secretary of Homeland Security shall, to the maximum extent permitted by law, and with the consent of State or local officials as appropriate, take appropriate action, through agreements under section 287(g) of the INA (8 U.S.C. 1357(g)) or otherwise, to authorize State and local law enforcement officials, as the Secretary of Homeland Security determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary of Homeland Security. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties. To the extent permitted by law, the Secretary of Homeland Security may structure each agreement under section 287(g) of the INA (8 U.S.C. 1357(g)) in the manner that provides the most effective model for enforcing Federal immigration laws in that jurisdiction.

Sec. 12. *Encouraging Voluntary Compliance with the Law.* The Secretary of Homeland Security shall take all appropriate action, in coordination with the Secretary of State and the Attorney General, and subject to adequate safeguards, assurances, bonds, and any other lawful measure, to adopt policies and procedures to encourage aliens unlawfully in the United States to voluntarily depart as soon as possible, including through enhanced usage of the provisions of section 240B of the INA (8 U.S.C. 1229c), international agreements or assistance, or any other measures that encourage aliens unlawfully in the United States to depart as promptly as possible, including through removals of aliens as provided by section 250 of the INA (8 U.S.C. 1260).

Sec. 13. *Recalcitrant Countries.* The Secretary of State and the Secretary of Homeland Security shall take all appropriate action to:

(a) Cooperate and effectively implement, as appropriate, the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), with the Secretary of State, to the maximum extent permitted by law, ensuring that diplomatic

efforts and negotiations with foreign states include the foreign states' acceptance of their nationals who are subject to removal from the United States; and

(b) Eliminate all documentary barriers, dilatory tactics, or other restrictions that prevent the prompt repatriation of aliens to any foreign state. Any failure or delay by a foreign state to verify the identity of a national of that state shall be considered in carrying out subsection (a) this section, and shall also be considered regarding the issuance of any other sanctions that may be available to the United States.

Sec. 14. *Visa Bonds.* The Secretary of Treasury shall take all appropriate action, in coordination with the Secretary of State and the Secretary of Homeland Security, to establish a system to facilitate the administration of all bonds that the Secretary of State or the Secretary of Homeland Security may lawfully require to administer the provisions of the INA.

Sec. 15. *Reestablishment of the VOICE Office and Addressing Victims of Crimes Committed by Removable Aliens.* The Secretary of Homeland Security shall direct the Director of U.S. Immigration and Customs Enforcement (ICE) to take all appropriate and lawful action to reestablish within ICE an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens, and those victims' family members. The Attorney General shall also ensure that the provisions of 18 U.S.C. 3771 are followed in all Federal prosecutions involving crimes committed by removable aliens.

Sec. 16. *Addressing Actions by the Previous Administration.* The Secretary of State, the Attorney General, and the Secretary of Homeland Security shall promptly take all appropriate action, consistent with law, to rescind the policy decisions of the previous administration that led to the increased or continued presence of illegal aliens in the United States, and align any and all departmental activities with the policies set out by this order and the immigration laws. Such action should include, but is not limited to:

(a) ensuring that the parole authority under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) is exercised on only a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual alien demonstrates urgent humanitarian reasons or a significant public benefit derived from their particular continued presence in the United States arising from such parole;

(b) ensuring that designations of Temporary Protected Status are consistent with the provisions of section 244 of the INA (8 U.S.C. 1254a), and that such designations are appropriately limited in scope and made for only so long as may be necessary to fulfill the textual requirements of that statute; and

(c) ensuring that employment authorization is provided in a manner consistent with section 274A of the INA (8 U.S.C. 1324a), and that employment authorization is not provided to any unauthorized alien in the United States.

Sec. 17. *Sanctuary Jurisdictions.* The Attorney General and the Secretary of Homeland Security shall, to the maximum extent possible under law, evaluate and undertake any lawful actions to ensure that so-called ''sanctuary'' jurisdictions, which seek to interfere with the lawful exercise of Federal law enforcement operations, do not receive access to Federal funds. Further, the Attorney General and the Secretary of Homeland Security shall evaluate and undertake any other lawful actions, criminal or civil, that they deem warranted based on any such jurisdiction's practices that interfere with the enforcement of Federal law.

Sec. 18. *Information Sharing.* (a) The Secretary of Homeland Security shall promptly issue guidance to ensure maximum compliance by Department of Homeland Security personnel with the provisions of 8 U.S.C. 1373 and 8 U.S.C. 1644 and ensure that State and local governments are provided with the information necessary to fulfill law enforcement, citizenship, or immigration status verification requirements authorized by law; and

(b) The Attorney General, the Secretary of Health and Human Services, and the Secretary of Homeland Security shall take all appropriate action to stop the trafficking and smuggling of alien children into the United States, including through the sharing of any information necessary to assist in the achievement of that objective.

Sec. 19. *Funding Review.* The Attorney General and the Secretary of Homeland Security shall:

(a) Immediately review and, if appropriate, audit all contracts, grants, or other agreements providing Federal funding to non-governmental organizations supporting or providing services, either directly or indirectly, to removable or illegal aliens, to ensure that such agreements conform to applicable law and are free of waste, fraud, and abuse, and that they do not promote or facilitate violations of our immigration laws;

(b) Pause distribution of all further funds pursuant to such agreements pending the results of the review in subsection (a) of this section;

(c) Terminate all such agreements determined to be in violation of law or to be sources of waste, fraud, or abuse and prohibit any such future agreements;

(d) Coordinate with the Director of the Office of Management and Budget to ensure that no funding for agreements described in subsection (c) of this section is included in any appropriations request for the Department of Justice or the Department of Homeland Security; and

(e) Initiate clawback or recoupment procedures, if appropriate, for any agreements described in subsection (c) of this section.

Sec. 20. *Denial of Public Benefits to Illegal Aliens.* The Director of the Office of Management and Budget shall take all appropriate action to ensure that all agencies identify and stop the provision of any public benefits to any illegal alien not authorized to receive them under the provisions of the INA or other relevant statutory provisions.

Sec. 21. *Hiring More Agents and Officers.* Subject to available appropriations, the Secretary of Homeland Security, through the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement, shall take all appropriate action to significantly increase the number of agents and officers available to perform the duties of immigration officers.

Sec. 22. *Severability.* It is the policy of the United States to enforce this order to the maximum extent possible to advance the interests of the United States. Accordingly:

(a) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its other provisions to any other persons or circumstances shall not be affected thereby; and

(b) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid because of the failure to follow certain procedures, the relevant executive branch officials shall implement those procedural requirements to conform with existing law and with any applicable court orders.

Sec. 23. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

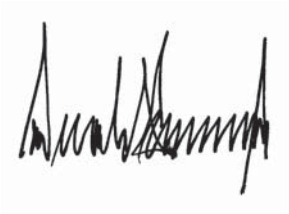
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party

against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
January 20, 2025.

[FR Doc. 2025–02006
Filed 1–28–25; 11:15 am]
Billing code 3395–F4–P

EXHIBIT B

U.S. Department of Justice

Office of the Deputy Attorney General

Washington, DC 20530

January 21, 2025

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ACTING DEPUTY ATTORNEY GENERAL EB3

SUBJECT: Interim Policy Changes Regarding Charging, Sentencing, And Immigration Enforcement

Following President Trump's second inauguration yesterday, I write regarding interim decisions and policy changes pending confirmation of the Attorney General.[1] These interim changes are necessary as an initial response to Executive Orders that President Trump issued yesterday, critical to the Justice Department's mission, and part of the response to three of the most serious threats facing the American people. First, Cartels and other Transnational Criminal Organizations, such as Tren de Aragua (TdA) and La Mara Salvatrucha (MS-13), are a scourge on society resulting in an unstable and unsafe border and huge flows of illegal immigration in violation of U.S. law. Second, brutal and intolerable violent crime by members of these organizations and illegal aliens is escalating rapidly across the country. Third, the fentanyl crisis and opioid epidemic are poisoning our communities and have inflicted an unprecedented toll of addiction, suffering, and death.

The Justice Department must, and will, work to eradicate these threats. Indeed, it is the responsibility of the Justice Department to defend the Constitution and, accordingly, to lawfully execute the policies that the American people elected President Trump to implement. The Justice Department's responsibility, proudly shouldered by each of its employees, includes aggressive enforcement of laws enacted by Congress, as well as vigorous defense of the President's actions on behalf of the United States against legal challenges. The Department's personnel must come together in the offices that taxpayers have funded to do this vitally important work.

I. Core Principle: Pursuing The Most Serious, Readily Provable Offense

Interim changes to the Justice Department's policy regarding charging and sentencing are necessary in order to implement policies articulated in President Trump's January 20, 2025 Executive Orders relating to the elimination of Cartels and other Transnational Criminal Organizations, and securing our borders against illegal immigration and drug trafficking. Therefore, effective today, the Justice Department's interim policy regarding charging and

[1] This interim guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

sentencing is set forth in the May 10, 2017 Memorandum entitled, "Department Charging and Sentencing Policy," which applies to all charging decisions at the Department of Justice and the U.S. Attorney's Offices. Any inconsistent previous policy of the Department of Justice relating to charging and sentencing policy is rescinded, effective today.[2]

Specifically, in the absence of unusual facts, prosecutorial discretion at the Department of Justice and the U.S. Attorney's Offices is bounded by the core principle that prosecutors should charge and pursue the most serious, readily provable offenses. The most serious offenses are those punishable by death where applicable, and offenses with the most significant mandatory minimum sentences (including under the Armed Career Criminal Act and 21 U.S.C. § 851) and the most substantial recommendation under the Sentencing Guidelines.

Each United States Attorney and Assistant Attorney General is responsible for ensuring that this interim policy is implemented and followed. Any deviations from the interim policy's core principle require significant extenuating circumstances, shall be carefully considered, and must be approved consistent with the process described in the May 10, 2017 Memorandum.

II. Faithful Execution of the Immigration Laws

Consistent with President Trump's January 20, 2025 Executive Order entitled, "Protecting The American People Against Invasion," the Department of Justice will take all steps necessary to protect the public and secure the American border by removing illegal aliens from the Country and prosecuting illegal aliens for crimes committed within U.S. jurisdiction. These steps shall include, but not be limited to, the following:

Consistent with the core principle of pursuing the most serious, readily provable offense, U.S. Attorney's Offices and the other components shall pursue charges relating to criminal immigration-related violations when such violations are presented by federal, state, or local law enforcement or the Intelligence Community. *See, e.g.*, 8 U.S.C. §§ 1324(c), 1252c (authorizing certain immigration-related arrests by State and local law enforcement officials). This includes, where supported by evidence, prosecutions for violations of 8 U.S.C. §§ 1304, 1306, 1324-1328, 1373 and 18 U.S.C. § 922(g)(5). Each U.S. Attorney's Office shall coordinate as appropriate with the federal courts to inform the courts of this interim policy and develop processes for handling the increased number of prosecutions that will result. Declination decisions relating to immigration-related conduct shall be disclosed as Urgent Reports pursuant to Justice Manual § 1-13.130. On a quarterly basis, the U.S. Attorney's Offices shall report statistics to EOUSA, broken down by law enforcement agency, regarding the number of immigration-related cases referred to the Office, the number of pending immigration-related investigations and prosecutions, the number of immigration-related convictions, and the resulting sentences and removals.

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[2] The previous policies and guidance rescinded include: "General Department Policies Regarding Charging, Pleas, and Sentencing" (December 16, 2022); "Interim Guidance on Prosecutorial Discretion, Charging, and Sentencing" (January 29, 2021); "Department Policy on Charging Mandatory Minimum Sentences and Recidivist Enhancements in Certain Drug Cases" (August 12, 2013); and "Guidance Regarding § 851 Enhancements in Plea Negotiations" (September 24, 2014).

The Organized Crime Drug Enforcement Task Force (OCDETF) and the Project Safe Neighborhoods (PSN) program shall establish national initiatives to provide focused resources and attention to immigration-related prosecutions at the federal, state, and local levels. OCDETF and PSN will focus on facilitating access by U.S. Attorney's Offices to existing structures in which the Justice Department participates, such as Joint Task Force Vulcan, which targets MS-13 and will be expanded to target TdA, and Joint Task Force Alpha, which targets human trafficking. The regional OCDETF Strike Forces shall prioritize the investigation and prosecution of immigration offenses, including by requiring OCDETF-funded AUSAs to devote significant time and attention to the investigation and prosecution of these crimes. The new OCDETF and PSN national initiatives shall also prioritize enhanced statistical tracking of these efforts.

Pending implementation of the Homeland Security Task Forces announced by President Trump on January 20, 2025, the FBI's Joint Terrorism Task Forces are directed to coordinate with DHS, as well as state and local members, to assist in the execution of President Trump's immigration-related initiatives. The FBI, DEA, ATF, USMS, and BOP shall review their files for identifying information and/or biometric data relating to non-citizens located illegally in the United States. All such information and data shall be disclosed to DHS, for the sole purpose of facilitating appropriate removals, enforcement actions, and immigration-related investigations and prosecutions, unless the agency possessing the information and data determines that a particular disclosure would compromise a significant law enforcement investigation and the U.S. Attorney's Office participating in the investigation concurs in writing with the agency's non-disclosure determination. The agencies' reviews and disclosures shall be completed in 60 days. Concurrences by U.S. Attorney's Offices in non-disclosure determinations shall be disclosed as Urgent Reports pursuant to Justice Manual § 1-13.130.

The Supremacy Clause and other authorities require state and local actors to comply with the Executive Branch's immigration enforcement initiatives. Federal law prohibits state and local actors from resisting, obstructing, and otherwise failing to comply with lawful immigration-related commands and requests pursuant to, for example, the President's extensive Article II authority with respect to foreign affairs and national security, the Immigration and Nationality Act, and the Alien Enemies Act. The U.S. Attorney's Offices and litigating components of the Department of Justice shall investigate incidents involving any such misconduct for potential prosecution, including for obstructing federal functions in violation of 18 U.S.C. § 371, and violations of other statutes, such as 8 U.S.C. §§ 1324, 1373. Declination decisions with respect to resistance, obstruction, or other non-compliance with lawful immigration-related commands and requests from federal authorities shall be disclosed as Urgent Reports pursuant to Justice Manual § 1-13.130.

Finally, laws and actions that threaten to impede Executive Branch immigration initiatives, including by prohibiting disclosures of information to federal authorities engaged in immigration-enforcement activities, threaten public safety and national security. The Civil Division shall work with the newly established Sanctuary Cities Enforcement Working Group, within the Office of the Associate Attorney General, to identify state and local laws, policies, and activities that are inconsistent with Executive Branch immigration initiatives and, where appropriate, to take legal action to challenge such laws.

EXHIBIT C

Office of the Attorney General
Washington, D. C. 20530

February 5, 2025

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL

SUBJECT: SANCTUARY JURISDICTION DIRECTIVES[1]

Unlawful border crossings and illegal migration into the United States have reached record levels, resulting in a substantial and unacceptable threat to our national security and public safety. To protect the American people from the effects of unlawful mass migration, President Trump has prioritized securing our Nation's borders and enforcing federal immigration laws. In furtherance of that objective, the Department of Justice will ensure that, consistent with law, "sanctuary jurisdictions" do not receive access to Federal funds from the Department. Consistent with applicable statutes, regulations, court orders, and terms, the Department of Justice shall pause the distribution of all funds until a review has been completed, terminate any agreements that are in violation of law or are the source of waste, fraud, or abuse, and initiate clawback or recoupment procedures, where appropriate.[2] In carrying out this directive, each component shall comply with any notice and procedural requirements in the award, agreement, or other instrument.

I. End Funding to State and Local Jurisdictions That Unlawfully Interfere with Federal Law Enforcement Operations

Sanctuary jurisdictions should not receive access to federal grants administered by the Department of Justice. The Department will exercise its own authority to impose any conditions of funding that do not violate applicable constitutional or statutory limitations. *See New York v. Dep't of Justice*, 951 F.3d 84, 111 (2d Cir. 2020) ("Because 8 U.S.C. § 1373 is a law applicable to all plaintiffs in this action, the Attorney General was authorized to impose the challenged Certification Condition and did not violate either the APA or separation of powers by doing so.").

Federal law provides that state and local jurisdictions "may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [federal immigration officers] information regarding the citizenship or immigration status, lawful or unlawful, of any

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[1] This guidance is not intended to, does not, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

[2] This memorandum rescinds, effective today, any inconsistent previous memoranda, policies, or guidance documents of the Department of Justice.

individual." 8 U.S.C. § 1373(a). So-called "sanctuary jurisdictions" include state or local jurisdictions that refuse to comply with 8 U.S.C. § 1373, refuse to certify compliance with § 1373, or willfully fail to comply with other applicable federal immigration laws. Consistent with statutory authority and past practice, the Department will require any jurisdiction that applies for certain Department grants to be compliant with 8 U.S.C. § 1373(a). Within 30 days, the Associate Attorney General, in coordination with components that provide Department grants, will report to the Attorney General the grants to which this requirement applies.

Additionally, to the extent consistent with applicable statutes, regulations, and terms, the Department may seek to tailor future grants to promote a lawful system of immigration, and to reduce efforts by state or local jurisdictions to undermine a lawful system of immigration. The Department will also seek to take any appropriate enforcement action where state or local practices violate federal laws, regulations, or grant conditions.

II. Identify and Evaluate All Funding Agreements with Non-Governmental Organizations That Provide Support to Illegal Aliens

All Department components that provide federal funding to non-governmental organizations shall immediately identify all contracts, grants, or other agreements with organizations that support or provide services to removable or illegal aliens. For any such agreement, each component shall, to the extent consistent with applicable statutes, regulations, court orders, and terms:

(1) Pause any further distribution of funds for 60 days after complying with any notice and procedural requirements.

(2) Identify non-governmental organization(s) receiving funding from the Department and describe the support or services provided. The component shall direct each organization to report whether the disbursed funds: (a) were provided in accordance with applicable laws; (b) resulted in the provision of any funds or services to removable or illegal aliens; (c) resulted in or were the subject of waste, fraud, or abuse; and (d) promoted or facilitated violations of our immigration laws. The component shall further direct each organization to certify that it will not use any remaining funds to promote or facilitate the violation of Federal immigration law.

(3) Compile information set forth at (2) above and submit it to the Associate Attorney General within 45 days of this memorandum.

Upon completion of this process, the Associate Attorney General, in consultation with the Deputy Attorney General, shall determine which (if any) agreements to terminate and whether to resume funding of any remaining agreements, consistent with applicable statutes, regulations, and terms.

Effective immediately, consistent with applicable law, the Department of Justice shall not enter into any new contract, grant, or other agreement to provide Federal funding to non-

governmental organizations that support or provide services, either directly or indirectly (*e.g.*, through sub-contracting or other arrangements), to removable or illegal aliens.

III. Pursue Enforcement Actions Against Jurisdictions That Facilitate Violations of Federal Immigration Laws or Impede Lawful Federal Immigration Operations

Actions that impede federal efforts to enforce immigration law threaten public safety and national security. State and local jurisdictions must comply with applicable immigration-related federal laws. State and local actors may not impede, obstruct, or otherwise fail to comply with lawful immigration-related directives pursuant to the President's Article II authority to ensure national security, the Immigration and Nationality Act, or other authorities.

All litigating components of the Department of Justice and each U.S. Attorney's Office shall investigate incidents involving any such misconduct and shall, where supported by the evidence, prosecute violations of federal laws such as 18 U.S.C. § 371 and 8 U.S.C. §§ 1324 and 1373. All declination decisions with respect to any effort to obstruct or fail to comply with a lawful immigration-related directive from the Executive Branch shall be promptly reported pursuant to Justice Manual § 1-13.130.

The Civil Division shall, in coordination with the Sanctuary Cities Enforcement Working Group, identify state and local laws, policies, and practices that facilitate violations of federal immigration laws or impede lawful federal immigration operations. Where appropriate, the Civil Division shall take legal action to challenge such laws, policies, or practices. Attorneys tasked to the Sanctuary Cities Enforcement Working Group shall regularly report to the Associate Attorney General and the Deputy Attorney General their progress regarding the review of state and local laws, policies, and practices, and shall promptly report any decisions not to pursue enforcement actions against state and local jurisdictions found to be facilitating violations of federal immigration laws or impeding lawful federal immigration operations.

CITY OF SANTA FE

Memorandum

Date: January 31, 2025

To: Governing Body, Public Works and Utilities Committee, Finance Committee

From: Romella Glorioso-Moss, Complete Streets Capital Projects Manager RGM

Via: Regina Wheeler, Public Work Department Director RW

RE: C5233360 Pacheco Street Improvement Designating Authorized Representatives and Agents

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EXECUTIVE SUMMARY:

The Resolution designates authorized representatives and agents for New Mexico Department of Finance and Administration (DFA), appropriation ID Number H3360 and New Mexico Department of Transportation (NMDOT) Control Number C5233360 ("Grant Agreement"). The Grant Agreement makes available three hundred and fifty thousand dollars ($350,000), appropriated by the New Mexico State Legislature for a project to acquire rights of way and to plan, design, and construct bicycle and pedestrian improvements along Pacheco Street between West San Mateo Road and Alta Vista Street in the city Santa Fe in Santa Fe County.

BACKGROUND:

The New Mexico Department of Transportation, through Article X.B. (v) of the Grant Agreement, requires that the City of Santa Fe as the grantee, to agree that the "governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment". Adoption of this Resolution will satisfy this requirement and allow the City to enter into the Grant Agreement. The Grant Agreement will be presented to the Governing Body in an action separate from this Resolution; and this Resolution will not be implicated if the Governing Body does not later approve the grant agreement.

ATTACHMENTS:

Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Amanda Chavez

A RESOLUTION

AUTHORIZING REPRESENTATIVES AND AGENTS FOR AN AGREEMENT WITH NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, REGARDING APPROPRIATION ID NUMBER H3360, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5233360, TO ACQUIRE RIGHTS OF WAY FOR AND TO PLAN, DESIGN AND CONSTRUCT BICYCLE AND PEDESTRIAN IMPROVEMENTS ALONG PACHECO STREET BETWEEN WEST SAN MATEO ROAD AND ALTA VISTA STREET.

WHEREAS, in the Laws of 2023, Chapter 199, Section 33, Subsection 94, the New Mexico Legislature made an appropriation to the New Mexico Department of Transportation ("NMDOT"), for funds from which NMDOT is making available to the City of Santa Fe ("Grantee" or "City") through the New Mexico Department of Finance and Administration Appropriation Number H3360, NMDOT Control Number C5233360 ("Agreement"), incorporated as Attachment A, in the amount of three hundred fifty thousand dollars ($350,000), to acquire rights of way and to plan, design, and construct and pedestrian and bicycle improvements along Pacheco Street,

between West San Mateo Road and Alta Vista Street in the city of Santa Fe in Santa Fe County ("Project"); and

WHEREAS, Article X. B. (v) of the Agreement, states that "the Grantee's governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment" and adopting this resolution will satisfy this requirement; and

WHEREAS, in a letter dated August 24, 2023, the New Mexico Department of Finance and Administration ("DFA") took the position that it required the City to initiate a fiscal agent relationship in order for the City to utilize State Capital appropriations, and this position was renewed in a letter dated August 20, 2024 for all current Capital outlay appropriations; and

WHEREAS, as a result of the DFA's position articulated in these letters, the City entered into a governmental services agreement, incorporated as Attachment B, with North Central Economic Development District ("NCEDD") for fiscal agent services, in which NCEDD agreed to review and sign Requests for Payment for permissible expenditures, on December 19, 2023; and

WHEREAS, the terms of Amendment No. 1 to the Intergovernmental Service Agreement, Item No. 23-H3360, included as part of Attachment B, includes the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the following provisions shall apply to the Agreement:

A. The person listed below, or their successor, is the Grantee's official representative authorized to sign the Agreement:

Grantee: City of Santa Fe

Name: Alan Webber

Title: Mayor

Address: PO Box 909

Santa Fe, NM 87504-0909

Email: mayor@santafenm.gov

Telephone: (505) 955-6590

B. The person listed below, or their successor, is the Grantee's Fiscal Officer of Fiscal Agent concerning reviewing and signing Requests for Payments for permissible expenditures:

Grantee: City of Santa Fe

Name: Felicity Fonseca

Title: Community Development Director, North Central New Mexico Economic Development District

Address: 644 Don Gaspar Ave.
Santa Fe, Nm 87505

Email: felicityf@ncnmedd.com

Telephone: (505) 356-9098

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/C5233360 Pacheco Street Improvement Designating Authorized Representatives

DocuSign Envelope ID: 15D15C20-5996-4750-B82F-03D9CD1CD811

ATTACHMENT A

Contract Number: _____
Vendor Number: 0000054360
Control Number: C5233360

STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 93100 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is between the Department of Transportation, hereinafter called the "Department" or abbreviation such as "NMDOT", and City of Santa Fe, hereinafter called the "Grantee". This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2023, HB505, Chapter 199, Section 33, Subsection 94, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID H3360 NMDOT Control Number C5233360 **$350,000**
APPROPRIATION REVERSION DATE: 6/30/2027
Laws of 2023, Chapter 199, Section 33, Subsection 94, Three Hundred Fifty Thousand Dollars and No Cents ($350,000), to acquire rights of way and to plan, design and construct bicycle and pedestrian improvements along Pacheco street between west San Mateo road and Alta Vista street in Santa Fe in Santa Fe county; .

The Grantee's total reimbursements shall not exceed Three Hundred Fifty Thousand Dollars and No Cents $350,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")[1], if

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.

applicable, Zero Dollars and No Cents ($ 0.00), which equals Three Hundred Fifty Thousand Dollars and No Cents (**$350,000**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
   a. must be approved by the applicable oversight entity (if any) in accordance with law; or
   b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Santa Fe

Name: David Chapman
Title: Grants Administrator
Address: P.O. Box 909, Santa Fe, New Mexico 87504
Email: dachapman@ci.santa-fe.nm.us
Telephone: 505-955-2012

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 5 Office
Name: Amanda Nino
Title: Capital Outlay District Coordinator
Address: P.O. Box 4127, Santa Fe, NM 87502
Email: Amanda.Nino@dot.nm.gov
Telephone: 505-660-6357

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2027 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date

particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii) Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) Twenty (20) days from date of Early Termination; or

(iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in

Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the

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subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the

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requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

Alan Webber (Aug 19, 2024 17:02 MDT)

Signature of Official with Authority to Bind Grantee

City of Santa Fe

Entity Name

By: **Alan Webber**

(Type or Print Name)

Its: **Mayor**

(Type or Print Title)

Aug 19, 2024

Date

DEPARTMENT OF TRANSPORTATION

By:

Its: Cabinet Secretary or Designee

Date

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

DocuSigned by:
Sundeyeet kaur
0DBDF749FE734A2...

By: Aaron Frankland or Designee

Its: Deputy General Counsel

04/22/24

Date

IN WITNESS WHEREOF, the parties have executed this Capital Appropriation Project as of the dates set forth below.

CITY OF SANTA FE:

SEE ABOVE

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

GERALYN CARDENAS, INTERIM CITY CLERK
GB MTG 08/14/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 14, 2024 09:34 MDT)

SENIOR ASSISTANT CITY ATTORNEY

FINANCE DIRECTOR:

Emily K. Oster

EMILY OSTER

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STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I.	**Grantee Information**	**II.**	**Payment Computation**
	(Make sure information is complete & accurate)	A.	Payment Request No.
A.	Grantee:	B.	Grant Amount:
B.	Address:	C.	AIPP Amount *(If Applicable)*:
	(Complete Mailing, including Suite, if applicable)	D.	Funds Requested to Date:
		E.	Amount Requested this Payment:
		F.	Reversion Amount (*If Applicable*):
	City State Zip	G.	Grant Ballance:
C.	Phone No:	H.	☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)
D.	Grant No:	I.	☐ Final Request for Payment (*if Applicable*)
E.	Project Title:		
F.	Grant Expiration Date:		

III. **Fiscal Year :**

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer or **Fiscal Agent** (*if applicable*)	**Grantee Representative**
Printed Name	Printed Name
Date:	Date:

(State Agency Use Only)

Vendor Code: **Fund No.:** **Loc No.:**

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer	Date	Division Project Manager	Date

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NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____, _____]
FROM: Grantee: [_____]
Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee
Grant Number: [_____]
Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): [_____]
The Amount of this Notice of Obligation: [_____]
The Total Amount of all Previously Issued Notices of Obligation: [_____]
The Total Amount of all Notices of Obligation to Date: [_____]
Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]
Title: [_____]
Signature: [_____]
Date: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

DocuSign Envelope ID: 15D15C20-5996-4750-B82F-03D9CD1CD811

NMDOT ATTACHEMNT A

The City of Santa Fe shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Santa Fe shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.

INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN CITY OF SANTA FE AND
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
FOR FISCAL AGENT SERVICES

WHEREAS, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe ("City") to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below ("Projects");

WHEREAS, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

WHEREAS, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District ("NCNMEDD") in providing fiscal agency services in relation to the Projects.

NOW, THEREFORE, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

A. PURPOSE

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
F2903	2021	SANTA FE MIDTOWN INFRA DES CONSTRUCT	2021	138	29/344	341	Finance & Administration	1,000,000	to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;
F2899	2021	SANTA FE HOMEBOUND MEALS PROGRAM IMPROVE	2021	138	29/340	341	Finance & Administration	250,000	to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;
F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

B. SCOPE OF WORK

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.

2. City Role and Responsibilities
   - City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

C. TIMEFRAME

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

D. COMPENSATION:

NCNMEDD has agreed to provide the agreed upon services at three percent (3%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

E. RECORDS AND RECOVERY:

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

F. ACCESS TO INFORMATION

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

G. OWNERSHIP OF PROJECTS

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

H. LIMITATION OF LIABILITY

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

I. MODIFICATION AND TERMINATION

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

J. CERTIFICATION

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

K. ADEQUATE APPROPRIATIONS

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

L. PENALTIES

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

M. 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: City
City Manager John Blair
City of Santa Fe
200 Lincoln
Santa Fe, New Mexico, 87501j

To NCNMEDD:
Monica Abeita Executive Director NCNMEDD
3900 Paseo del Sol
Santa Fe, NM 87507

N. DISPUTE RESOLUTION

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

O. BREACH AND DEFAULT

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

P. ASSIGNMENT

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 19th DAY OF December, 2023, BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

Monica Abeita, Executive Director Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Dec 19, 2023

ATTEST:

Geralyn Cardenas (Dec 19, 2023 14:06 MST)

GERALYN CARDENAS, INTERIM CITY CLERK XIV

GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry

Erin McSherry (Dec 8, 2023 13:36 MST)

ERIN MCSHERRY, CITY ATTORNEY

Munis Contract#_____
Original Contract Item#___23-0688____
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE
AMENDMENT No. 1 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 1 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional twenty-two (22) Capital appropriations as seen on Exhibit A.

2. COMPENSATION:

Article D, of the Agreement is amended in its entirety as follows:

NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from these Capital appropriations to make such payments.

3. CONTRACT 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 (Mar 14, 2024 10:01 MDT)

ALAN WEBBER, MAYOR

DATE: Mar 14, 2024

NCNMEDD

Monica Abeita

MONICA ABEITA
EXECUTIVE DIRECTOR

Executive Director
TITLE

DATE: Feb. 20, 2024

ATTEST:

Geralyn Cardenas (Mar 14, 2024 11:32 MDT)

GERALYN CARDENAS, INTERIM CITY CLERK

GB MTG 03/13/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Feb 16, 2024 13:08 MST)

SENIOR ASSISTANT CITY ATTORNEY

EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Agency	Bond Series
22-G2419	2022	Jemez Road Construction	$ 400,000	6/30/2026	NMED	STB23SC
22-G3010	2022	SF Fire Fleet Equip / Upgrade Improv	$ 120,000	6/30/2026	DFA	STB23SC
22-G3012	2022	Harrison Rd Improve Construct	$ 100,000	6/30/2026	DFA	STB23SC
22-G3016	2022	Homebound Meals Program Improve	$ 200,000	6/30/2026	DFA	STB23SC
22-G3017	2022	Midtown Property Infra Improve	$ 1,100,000	6/30/2026	DFA	STB23SC
22-G3018	2022	SWAN Park Phase 2 Construct	$ 380,000	6/30/2026	DFA	STB23SC
22-G3019	2022	Tierra Contenta Trail Improve	$ 300,000	6/30/2026	DFA	STB23SC
22-G3165	2022	Median Beautify Phase 1 Design	$ 1,170,000	6/30/2026	DOT	STB23SC
22-G3169	2022	Governor Miles Rd. Construct	$ 300,000	6/30/2026	DOT	STB23SC
22-G3170	2022	Pacheco Street Improve	$ 150,000	6/30/2026	DOT	STB23SC
G22-5353	2022	Mary Esther Gonzales Senior Ctr- Equip	$ 235,630	6/30/2026	ALTSD	STB22SC- GO Bonds
G22-5354	2022	Pasatiemo Senior Ctr- Equip	$ 65,805	6/30/2026	ALTSD	STB22SC- GO Bonds
23-H3200	2023	Santa Fe Building Upgrade	$ 210,000	6/30/2027	DFA	General Fund
23-H3201	2023	SF Fire Station #2 Construction	$ 3,995,000	6/30/2027	DFA	General Fund
23-H3202	2023	SF Homebound Meals Faculty Ren	$ 200,000	6/30/2027	DFA	General Fund
23-H3203	2023	SF Midtown Infa. Improvement	$ 4,900,000	6/30/2027	DFA	General Fund
23-H3204	2023	SF Muni Rec Sports Cmplx Field Const.	$ 50,000	6/30/2027	DFA	General Fund
23-H3205	2023	SF Pickleball Cmplx Ft. Marcy Constr.	$ 650,000	6/30/2027	DFA	General Fund
23-H3206	2023	SF SWAN Park Phase 2 Improvement	$ 2,400,000	6/30/2027	DFA	General Fund
23-H3207	2023	SF Water History Park Improvement	$ 350,000	6/30/2027	DFA	General Fund
23-H3359	2023	Governor Miles Road Improvement	$ 210,000	6/30/2027	DOT	General Fund
23-H3360	2023	Pacheco Street Improvement	$ 350,000	6/30/2027	DOT	General Fund

INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN CITY OF SANTA FE AND
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
FOR FISCAL AGENT SERVICES

WHEREAS, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe ("City") to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below ("Projects");

WHEREAS, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

WHEREAS, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District ("NCNMEDD") in providing fiscal agency services in relation to the Projects.

NOW, THEREFORE, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

A. PURPOSE

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
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F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

B. SCOPE OF WORK

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.

2. City Role and Responsibilities
   - City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

C. TIMEFRAME

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

D. COMPENSATION:

NCNMEDD has agreed to provide the agreed upon services at three percent (3%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

E. RECORDS AND RECOVERY:

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

F. ACCESS TO INFORMATION

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

G. OWNERSHIP OF PROJECTS

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

H. LIMITATION OF LIABILITY

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

I. MODIFICATION AND TERMINATION

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

J. CERTIFICATION

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

K. ADEQUATE APPROPRIATIONS

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

L. PENALTIES

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

M. 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: City
City Manager John Blair
City of Santa Fe
200 Lincoln
Santa Fe, New Mexico, 87501j

To NCNMEDD:
Monica Abeita Executive Director NCNMEDD
3900 Paseo del Sol
Santa Fe, NM 87507

N. DISPUTE RESOLUTION

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

O. BREACH AND DEFAULT

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

P. ASSIGNMENT

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 19th DAY OF December, 2023, BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

Monica Abeita, Executive Director Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Dec 19, 2023

ATTEST:

Geralyn Cardenas (Dec 19, 2023 14:06 MST)

GERALYN CARDENAS, INTERIM CITY CLERK XIV

GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry

Erin McSherry (Dec 8, 2023 13:36 MST)

ERIN MCSHERRY, CITY ATTORNEY

Emily K. Oster

Finance Director

FIR No. 10651.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Authorized Representatives and Agents for DFA Appropriation ID Number H3360, NMDOT Control Number C5233360

Sponsor(s): Councilor Amanda Chavez

Reviewing Department(s): Public Works Department

Staff Completing FIR: Regina Wheeler, Public Works Director **Date:** 1/26/2025 **Phone:** (505) 690-4197

Reviewed by City Attorney: _____ **Date:** Feb 12, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 14, 2025

Summary:
The Resolution designates authorized representatives and agents for an agreement with New Mexico Department of Finance and Administration, regarding appropriation ID Number H3360, New Mexico Department of Transportation (NMDOT) Control Number C5233360 ("Grant Agreement"). The Grant Agreement makes available three hundred and fifty thousand dollars ($350,000), appropriated by the New Mexico Legislature for a project to acquire rights of way and to plan, design, and construct bicycle and pedestrian improvements along Pacheco Street between West San Mateo Road and Alta Vista Street in the city of Santa Fe in Santa Fe County.

Departments Affected:
Public Works Department.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City will not satisfy Article X. B. (v) of the Grant Agreement, which requires the Governing Body to adopt a resolution authorizing a person identified as the official representative of the City to sign the Grant Agreement and authorizing an agent to sign Requests for Payment. Additionally, without the adoption of this Resolution the City would not receive NMDOT's funding in the amount of three hundred and fifty thousand dollars ($350,000).

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
The Governing Body will be approving the agreement through a separate action.

Performance and Administrative Implications:
Public Works staff will acquire rights of way and to plan, design, and construct bicycle and pedestrian improvements along Pacheco Street between West San Mateo Road and Alta Vista Street in association with this Grant Agreement. Public Works Department and Finance Department staff will also administer the grant.

Fiscal Implications:

**Even as there is not a fiscal impact for authorizing and naming agents, it is worth pointing out that Amendment No. 1 to the Intergovernmental Agreement states that "NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects". If the City expends the total agreement amount of three hundred thousand dollars ($350,000), then NCNMEDD will receive three thousand five hundred dollars ($3,500) as one percent (1%) of the expense. The Governing Body will approve the agreement through a separate action. The City will pay the 1% from City funds separate from the grant funds and will approve the agreement through a separate action. The City will also budget funds for the fiscal agent fees in a separate action.

Fiscal Impact

__X__ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:
**See "Fiscal Implications" narrative above.

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: Regina Wheeler
Regina Wheeler (Feb 14, 2025 13:10 MST)

Email: rawheeler@santafenm.gov

Signature: ROMELLA GLORIOSO-MOSS

Email: rsglorioso-moss@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: February 5, 2025

To: Governing Body and Quality of Life Committee

From: Andréa Salazar, City Clerk AS

RE: 2025 Railyard Movies in the Park Alcohol Approval

EXECUTIVE SUMMARY:

The proposed resolution would grant permission to As Above, So Below to serve beer and wine at the 2025 Railyard Movies in the Park series on City of Santa Fe ("City") property, in the Railyard Park, on May 31, June 14, June 28, July 26, August 9, and August 23, 2025.

BACKGROUND:

SFCC 1987, Section 23-6.2, requires the Governing Body to adopt a resolution for the sale and consumption of alcohol for locations on City property that are not specifically listed in Section 23-6.2(A). The resolution must identify the event, date, hours, location, number of expected attendees, type of alcohol to be served, required permits, and insurance as required by the City's Code.

The proposed resolution addresses the required elements:

- the event is the 2025 Railyard Movies in the Park;
- the location is the Railyard Park;
- the dates are May 31, June 14, June 28, July 26, August 9, and August 23, 2025;
- the times are from 6:00 p.m. to 9:00 p.m.;
- the alcohol served will be beer and wine;
- five hundred (500) attendees per event are expected;
- a Special Dispenser Permit is required; and
- the liquor liability and general liability insurance will list the City as an additional insured in an amount not less than $2,000,000.00, per occurrence and in the aggregate.

ATTACHMENTS:

Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Alma Castro

A RESOLUTION

AUTHORIZING THE SALE AND CONSUMPTION OF BEER AND WINE IN THE RAILYARD PARK DURING THE 2025 RAILYARD MOVIES IN THE PARK ON MAY 31, 2025; JUNE 14, 2025; JUNE 28, 2025; JULY 26, 2025; AUGUST 9, 2025; AND AUGUST 23, 2025, PURSUANT TO SUBSECTION 23-6.2(C) SFCC 1987.

WHEREAS, SFCC 1987, Section 23-6.2 governs the consumption of alcohol on City property; and

WHEREAS, for serving alcohol at City properties not specifically mentioned in SFCC 1987, Section 23-6.2(A), the ordinance requires the Governing Body to approve a resolution that specifies the event, date, hours, location, number of expected attendees, type of alcohol to be served, permits, and insurance, at least thirty (30) days prior to the event; and

WHEREAS, the Railyard Movies in the Park event series has been taking place annually for sixteen (16) years; and

WHEREAS, Railyard Movies in the Park seeks to use As Above, So Below, a local distillery in the city of Santa Fe, to distribute beer and wine, promoting a local business to the community.

NOW, THEREFORE, BE RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that alcohol service during the 2025 Railyard Movies in the Park is hereby approved according to the following parameters:

Event:	Railyard Movies in the Park
Dates:	May 31, 2025; June 14, 202; June 28, 2025; July 26, 2025; August 9, 2025; and August 23, 2025.
Hours:	6:00 p.m. to 9:00 p.m.
Location:	The Railyard Park
Number of expected attendees:	500, per event
Type of alcohol to be served:	Beer and wine
Required Permits:	Special Dispenser Permit
Required Insurance:	Liquor Liability and General Liability insurance with limits not less than $2,000,000, per occurrence and in aggregate, with the City of Santa Fe, its officials, directors, employees, and agents as additional insureds on a primary and noncontributory basis. As Above, So Below Distillery shall provide the City with Certificates of Insurance and applicable endorsements evidencing such coverage.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/Railyard Movies in the Park 2025 Alcohol Approval

FIR No. 10652.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): 2025 Railyard Movies in the Park Alcohol Approval

Sponsor(s): Councilor Alma Castro

Reviewing Department(s): City Clerks Office

Staff Completing FIR: Andréa Salazar, City Clerk **Date:** 02/25/2025 **Phone:** (505) 955-6327

Reviewed by City Attorney: _____ **Date:** Feb 12, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 14, 2025

Summary:
This proposed Resolution authorizes the sale and consumption of beer and wine at the 2025 Railyard Movies in the Park event series. The Railyard Movies in the Park will be held at the Railyard Park on May 31, June 14, June 1, July 26, August 9, and August 23, 2025, from 6:00 p.m. to 9:00 p.m. The request is pursuant to SFCC 1987, Section 23-6.2, which requires the Governing Body to adopt a Resolution for events on Santa Fe City property that are not specifically listed in Section 23-6.2(A).

Departments Affected:
City Clerk's Office

Consequences of Not Enacting Legislation:
If this legislation is not adopted, then the Railyard Movies in the Park will not be able to have beer and wine as part of its 2025 movie event series.

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

Performance and Administrative Implications:
As Above, So Below Distillery, which is the sponsor of the Railyard Movies in the Park event series, is also required to obtain a Special Dispenser Permit from the Clerk's Office for the events.

Fiscal Implications:
None.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: ANDREA SALAZAR (Feb 3, 2025 13:49 MST)

Email: asalazar@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: February 13, 2025

To: Quality of Life Committee and Governing Body

From: Andréa Salazar, City Clerk AS

RE: Party on the Pitch Alcohol Approval

EXECUTIVE SUMMARY:

The Resolution would grant permission to the Santa Fe Adult Soccer League to serve beer and hard cider at its annual Party on the Pitch soccer tournament on Saturday, May 31, 2025, at the Municipal Recreation Complex ("MRC") soccer fields.

BACKGROUND:

SFCC 1987, Section 23-6.2 requires the adoption of a resolution for the sale and consumption of alcohol for locations on Santa Fe City property that are not specifically listed in 23-2.6(A). The resolution must identify the event, date, hours, location, number of expected attendees, type of alcohol to be served, required permits, and insurance, as required by City Code. The proposed resolution addresses the required elements: the event is the Party on the Pitch soccer tournament; the location is the MRC; the date is May 31, 2025; the time is 10:00 a.m. to 11:00 p.m. on Saturday, May 31, 2025; the alcohol would be beer and hard cider; no more than 100 attendees at a time in the beer garden are expected; a special dispenser permit is required; and liquor liability insurance will be $1,050,000.

ATTACHMENTS:

Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Michael Garcia

A RESOLUTION

AUTHORIZING THE SALE AND CONSUMPTION OF BEER AND HARD CIDER DURING THE PARTY ON THE PITCH SOCCER TOURNAMENT ON MAY 31, 2025, PURSUANT TO SECTION 23-6.2(C) SFCC 1987.

WHEREAS, SFCC 1987, Section 23-6.2 governs the consumption of alcohol on City property; and

WHEREAS, for serving alcohol at City properties not specifically mentioned in SFCC 1987, Section 23-6.2(A), the ordinance requires the Governing Body to approve a resolution that specifies the event, date, hours, location, number of expected attendees, type of alcohol to be served, permits, and insurance, at least thirty (30) days prior to the event; and

WHEREAS, the Santa Fe Adult Soccer League ("SFASL") has held a "Party on the Pitch" tournament at the Municipal Recreation Complex ("MRC") in 2019, 2022, 2023, and 2024, and held it previously at other locations; and

WHEREAS, the SFASL hopes to attract increasing numbers of out-of-city and out-of-state teams to the Party on the Pitch tournament, capitalizing on the ongoing improvements at the MRC; and

WHEREAS, SFASL wishes to partner with New Mexico Hard Cider to provide beer and hard cider in a beer garden for players and fans to enjoy during and after games held over the two-day Party on the Pitch tournament.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that alcohol service during the Party on the Pitch soccer tournament is hereby approved according to the following parameters:

Event:	Party on the Pitch Soccer Tournament
Dates:	May 31, 2025
Hours:	10:00 a.m. to 11:00 p.m. on Saturday, May 31, 2025
Location:	Municipal Recreation Complex soccer fields
Number of expected attendees:	No more than 100 at a time in the beer garden.
Type of alcohol to be served:	Beer and hard cider
Required Permits:	Special dispenser permit
Required Insurance:	Liquor Liability and General Liability insurance with limits not less than $2,000,000, per occurrence and in aggregate, with the City of Santa Fe, its officials, directors, employees, and agents as additional insureds on a primary and noncontributory basis. SFASL shall provide the City with Certificates of Insurance and applicable endorsements evidencing such coverage.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Resolutions/Party on the Pitch 2025 Alcohol Approval

FIR No. 10656.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** x

Short Title(s): Party on the Pitch Alcohol Approval

Sponsor(s): Councilor Michael Garcia

Reviewing Department(s): City Clerk's Office

Staff Completing FIR: Andréa Salazar **Date:** February 13, 2025 **Phone:** (505) 955-6327

Reviewed by City Attorney: _____ **Date:** Feb 17, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 17, 2025

Summary:
This proposed Resolution authorizes the sale and consumption of beer and hard cider at the Santa Fe Adult Soccer League's annual Party on the Pitch Soccer Tournament to be held at the Municipal Recreation Complex's Soccer Fields on May 31, 2025. The request is pursuant to SFCC 1987, Section 23-6.2, which requires the Governing Body to adopt a Resolution for events on properties owned by the City of Santa Fe that are not specifically listed in Section 23-6.2 (A).

Departments Affected:
City Clerk's Office

Consequences of Not Enacting Legislation:
If this legislation is not approved, then the Santa Fe Adult Soccer League will not be able to have a beer garden as part of the Party on the Pitch Tournament.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
The Governing Body approved the sale and consumption of beer at the 2022 tournament with Resolution No. 2022-20), the 2023 tournament with Resolution No. 2023-13, and the 2024 tournament with Resolution No. 2024-16.

Performance and Administrative Implications:
The Santa Fe Adult Soccer League is also required to obtain a public celebration permit for the event.

Fiscal Implications:
None identified.

Fiscal Impact
x Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: ANDREA SALAZAR (Feb 3, 2025 08:47 MST)

Email: asalazar@santafenm.gov

CITY OF SANTA FE
FINANCE

DATE: February 10, 2025

TO: Governing Body, Finance Committee, Public Works and Utilities Committee, and Quality of Life Committee

FROM: Andy Hopkins, Budget Officer AJH
Christina Martinez, Senior Budget Analyst CFM
CFM

VIA: Emily K. Oster, Finance Director

ITEM AND ISSUE:

The resolution approves budget amendments for the Buckman Direct Diversion and Santa Fe Solid Waste Management Agency and requests Department of Finance and Administration approval of City of Santa Fe ("City") budget amendments for the fiscal year quarter ending December 31, 2024 (Second Quarter).

BACKGROUND AND SUMMARY:

Attached is a resolution listing increases/decreases to the Fiscal Year 2024-2025 (FY2024/25) operating and capital projects budget. These amendments are included in this resolution because they result in a net increase or decrease to the various funds affected, and thus require approval from the New Mexico Department of Finance/Local Government Division (DFA/LGD) as part of the quarterly budget resolution. The schedule of detail supporting these increases/decreases is presented as Exhibit A of the proposed resolution in four sections:

A. Sub-Section A: Amendments to FY 2024/25 Budget That Have Previously Been Approved by the Governing Body: These budget amendments have been previously approved by the Governing Body and reflect amendments that exceed $60,000 and result in a net increase or decrease to any funds (and do not represent re-appropriations of unspent budget amounts from the prior year); per City ordinance, such amendments require Governing Body approval. They are included in this resolution for the purpose of summarizing all quarterly budget amendments on a single resolution to provide to DFA/LGD for its review and approval. Presentation of these amendments in a single resolution in this way is much more efficient than the alternative of presenting a revised resolution to DFA/LGD for each individual budget amendment approved by the Governing Body.

B. Sub-Section B: Amendments to FY 2024/25 Budget Previously Approved by other City Actors pursuant to SFCC 1987, Section 11-4 (A) and (B): These amendments were approved by and executed under the authority of the Finance Director (if the net budgetary change to any fund was under $5,000) or the City Manager (if the net budgetary change was between $5,000 and $60,000), per City ordinance. Also included are purely technical corrections and re-appropriations of unspent prior year budget amounts (including amounts over $60,000), which,

per City ordinance, the Finance Director may approve based on the prior year's Governing Body-approved budget authority.

C. Sub-Section C: Joint Operations (Buckman Direct Diversion & Santa Fe Solid Waste Management Agency) – Board-Approved Amendments to FY 2024/25 Budget: As the title of this section states, these amendments reflect net changes to the Buckman Direct Diversion and Santa Fe Solid Waste Management Agency joint operations budgets, approved and entered under the authority of the governing boards of those entities, contingent upon City approval. Like the amendments outlined above, these budgetary changes are included in this resolution for the purpose of presenting all quarterly net budgetary fund changes to DFA/LGD for its approval as required by New Mexico state statute.

D. Sub-Section D: Summary of All Quarterly Amendments to FY 2024/25 Budget by Fund: This section summarizes the net changes to all City funds detailed in the previous three sections (A-C). As shown at the bottom of this section, these amendments result in a net increase to the City's overall expenditure budget of $46,865,114 and a net increase to the overall revenue budget of $21,718,746. The resulting net expenditure increase of $25,146,368 (over and above additional revenue) is supported by current budgeted revenues and/or available fund balances.

Pursuant to SFCC 1987, Section 11-4 (D), the Budget Office summarizes all amendments resulting in net budgetary fund changes in a Resolution on a quarterly basis for Finance Committee consideration and Governing Body approval of the Resolution and subsequently submits said amendments to DFA/LGD for its approval.

ACTION RECOMMENDED:

Finance staff recommend that the Governing Body approve the resolution. Upon approval, the Resolution will be forwarded to DFA/LGD for its approval as is required by New Mexico state statute.

ATTACHMENTS

Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

APPROVING BUDGET AMENDMENTS FOR THE BUCKMAN DIRECT DIVERSION BOARD AND SANTA FE SOLID WASTE MANAGEMENT AGENCY AND REQUESTING THAT NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION APPROVE THE CITY OF SANTA FE'S SECOND QUARTER BUDGET AMENDMENTS FOR FISCAL YEAR 2025.

WHEREAS, SFCC 1987, Section 11-4(D), provides that budget adjustments approved by the City of Santa Fe's ("City's") Finance Director, City Manager, and the Governing Body shall be included by fund in a quarterly budget resolution approved by the Governing Body; and

WHEREAS, NMSA 1978, Section 6-6-2, provides that the Local Government Division of the New Mexico Department of Finance and Administration has the power and duty to authorize local public bodies to transfer funds from one budget item to another when the Secretary of the Department approves and a need exists meriting the transfer and the transfer is not prohibited by law; and

WHEREAS, Articles 3 and 4 of the Project Management and Fiscal Services Agreement

for the Buckman Direct Diversion Project requires that the Buckman Direct Diversion Project Board ("the BDD Board") establish and submit a budget to the City, Santa Fe County, and Las Campanas and to condition the BDD Board's approval of the budget on "appropriation by the City and/or [Santa Fe] County in an appropriate budget or budget amendment"; and

WHEREAS, the Joint Powers Agreement for the Santa Fe Solid Waste Management Agency ("the Waste Management Agency") requires that the Waste Management Agency recommend an annual budget, which "shall not be formally adopted or implemented unless and until it is approved by each of the City and [Santa Fe County]"; and

WHEREAS, the BDD Board and the Waste Management Agency have approved Second Quarter adjustments for their respective budgets and these adjustments have been incorporated into the City's proposed Second Quarter Budget amendments; and

WHEREAS, a Second Quarter Review of the Fiscal Year 2025 Budget shows a need to address significant priorities through adoption of net budget amendments that the Governing Body, City Manager or Finance Director, Buckman Direct Diversion Board or the Santa Fe Solid Waste Management Agency's Board have authorized.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that it approves the budget amendments for the BDD Board and the Waste Management Agency.

BE IT FURTHER RESOLVED that the Governing Body respectfully requests that the Secretary of the New Mexico Department of Finance and Administration approve the Second Quarter Budget Amendments, as detailed on the attached Exhibit A, and that the Local Government Division then authorize the amendments.

PASSED, APPROVED, and ADOPTED the ___ day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. MCSHERRY, CITY ATTORNEY

_____

LOCAL GOVERNMENT DIVISION

N.M. DEPARTMENT OF FINANCE

AND ADMINISTRATION

EXHIBIT A

CITY OF SANTA FE

2nd QUARTER FY 2024/25

~ ~ ~

SUB-SECTION [A]

AMENDMENTS TO FY 2024/25 BUDGET THAT HAVE PREVIOUSLY BEEN APPROVED BY THE GOVERNING BODY

CITY OF SANTA FE - SECOND QUARTER FY 2024/2025
SUB-SECTION [A]: BUDGET AMENDMENTS PREVIOUSLY APPROVED BY THE GOVERNING BODY

Fund	*Fund Title*	*Amendment Description*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
100	General Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	$ 959,939	$ -	$ (959,939)
100	General Fund	Appropriation from available balance to fund the first step of the General Plan Update *[CC apvd. 12/11/24, #9-cc]*	463,482	-	(463,482)
100	General Fund	Reappropriation from unspent prior year budget to fund contracted support for Chapter 14 Land Development Code revisions in Public Works *[CC apvd. 11/13/2024, #9-f]*	175,000	-	(175,000)
100	General Fund	Appropriation from available balance to fund items inadvertently ommitted from the Municipal Court FY25 budget *[CC apvd. 10/9/2024 #9-l]*	108,646	-	(108,646)
100	General Fund	Reallocation to the Office of Equity & Inclusion to cover salary & benefits for the Equity & Inclusion Director *[CC apvd. 10/30/2024, #9-0]*	90,203	90,203	-
212	Economic Development	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	2,154	2,154	-
213	Lodgers' Tax Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	29,066	-	(29,066)
221	Emergency Services	Appropriation of Department of Homeland Security BRIC grant to fund various Emergency Management projects *[CC appvd 12/11/24, #9aa]*	283,975	283,975	
221	Emergency Services	Appropriation of FEMA grant for hazard mitigation plan update and wildfire risk assessment *[CC apvd. 11/13/2024, #9-L]*	163,509	163,509	
221	Emergency Services	Appropriation of Department of Homeland Security BRIC grant for Cerrillos Rd. stormwater infiltration *[CC apvd. 11/13/2024, #9-e]*	33,687	33,687	-
221	Emergency Services	Appropriation of Department of Homeland Security BRIC grant to fund the design of microgrids for community resiliency *[CC appvd 11/13/24, #9-d]*	24,966	24,966	-
221	Emergency Services	Appropriation of FEMA grant for Arroyo de los Pinos bioinfiltration basins *[CC apvd. 11/14/2024, #9-g]*	13,859	13,859	-
221	Emergency Services	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	2,154	-	(2,154)
223	Law Enforcement	Allocation of NM DFA grant to fund the purchase and installation of equipment *[CC apvd. 12/11/2024, #9-f]*	250,000	250,000	
223	Law Enforcement	Appropriation of NM CVRC state gap funding for new DNA ID machine *[CC apvd. 10/09/2024, #9-m]*	229,792	229,792	-
223	Law Enforcement	Allocation of NM DFA grant to fund the hiring of enforcement/support positions *[CC apvd. 12/11/2024, #9-e]*	187,500	187,500	-
223	Law Enforcement	Appropriation of NM DOT grant for Police overtime associated with the ENDWI, Buckle Up/Click It or Ticket and Selective Traffic Enforcement Programs *[CC apvd. 12/11/24, #9-d]*	82,835	82,835	-
231	City Drainage Fund	Appropriation of Department of Homeland Security BRIC grant for Cerrillos Rd. stormwater infiltration *[CC apvd. 11/13/2024, #9-e]*	675,436	506,577	(168,859)

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
231	City Drainage Fund	Appropriation of FEMA grant for Arroyo de los Pinos bioinfiltration basins *[CC apvd. 11/14/2024, #9-g]*	350,963	350,963	
231	City Drainage Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	2,153	-	(2,153)
232	Impact Fees Fund	Allocation of roads impact fees to the Agua Fria/Cottonwood Intersection CIP project *[CC apvd. 12/11/24, #9-t]*	489,000	-	(489,000)
232	Impact Fees Fund	Allocation of roads impact fees to the Henry Lynch Road Reconstruction CIP project *[CC apvd. 12/11/24, #9-u]*	112,000	-	(112,000)
232	Impact Fees Fund	Allocation of roads impact fees to the Arroyo de los Chamisos Crossing project [CC apvd. 12/11/2024, #9-o]	43,680	-	(43,680)
232	Impact Fees Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	1,077	-	(1,077)
233	Transportation Grants	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	3,230	-	(3,230)
240	Community Development	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	1,077	-	(1,077)
241	Senior Citizen Grants/Programs	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	46,291	-	(46,291)
241	Senior Citizen Grants/Programs	Adjustments to Senior grant budgets based on final awards from the Federal and State Agencies on Aging *[CC apvd. 08/28/2024 #9-e, 9-f]*	(8,525)	12,243	20,768
251	Library Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	13,995	-	(13,995)
256	Recreation Fund	Transfer of funding for the Temporary Summer Youth Program positions from GCCC to Recreation *[CC apvd. 12/11/24, # 9-bb]*	192,008	192,008	-
256	Recreation Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	19,377	-	(19,377)
315	CIP Resource Conservation	Appropriation of Department of Homeland Security BRIC grant to fund the design of microgrids for community resiliency *[CC appvd 11/13/24, #9-d]*	500,033	500,033	
320	CIP Facilities	Appropriation of NM EMNRD GSA grant award to fund BRAIN platform project *[CC apvd. 12/11/2024, #9-s]*	550,000	550,000	-
330	CIP Streets & Roadways	Appropriation of NM DOT/US DOT-FHWA grant to support the Agua Fria/Cottonwood Roundabout CIP project *[CC apvd. 12/11/24, #9-t]*	489,000	489,000	-
330	CIP Streets & Roadways	Allocation of roads impact fees to the Arroyo de los Chamisos Crossing project *[CC apvd. 12/11/2024, #9-o]*	300,000	300,000	-
330	CIP Streets & Roadways	Appropriation of NM DOT grant and roads impact fees for the Henry Lynch Road Reconstruction CIP project *[CC apvd. 12/11/24, #9-u]*	112,000	112,000	-
330	CIP Streets & Roadways	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	9,689	9,689	-
355	CIP Parks and Trails	Appropriation from NM DFA grant to fund improvements to Ft. Marcy Park *[CC apvd 11/13/2024, #9-k]*	5,000,000	5,000,000	-

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
355	CIP Parks and Trails	Appropriation from NM DOT grant to fund citywide median improvements projects *[CC apvd. 10/30/24 #9-d]*	1,170,000	1,170,000	-
355	CIP Parks and Trails	Appropriation from NM DFA grant for bridge construction at Shelby St. *[CC appvd.11/13/24, #9-j]*	240,000	240,000	-
365	½% GRT Income Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	18,302	-	(18,302)
500	Waste Water Management	Appropriation from available balance to replace sanitary sewer line in Calle Mejia *[CC apvd.11/13/24, #9-r]*	3,275,029	-	(3,275,029)
500	Waste Water Management	Appropriation from available balance to fund on-call construction services *[CC apvd. 12/11/24 #9-w]*	2,666,930	-	(2,666,930)
500	Waste Water Management	Appropriation from available balance to fund WIP construction services *[CC apvd. 11/13/24, #9-m]*	1,500,000	-	(1,500,000)
500	Waste Water Management	Appropriation from available balance for emergency purchase of generator for WWTP *[CC apvd. 12/11/24, #9-v]*	308,576	-	(308,576)
500	Waste Water Management	Appropriation to fund on-call services for ongoing critical Wastewater system repairs *[CC apvd. 12/11/24, #10-a]*	197,470	-	(197,470)
500	Waste Water Management	Appropriation from available balance for on-call repair and maintenance services *[CC appvd. 11/13/24, #9-h]*	116,000	-	(116,000)
500	Waste Water Management	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	41,986	-	(41,986)
505	Water Management	Allocation of available balance to fund city-wide water utility construction and repair projects *[CC appvd. 11/13/24, #9-o, 9-p, 9-s]*	3,780,870	-	(3,780,870)
505	Water Management	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	67,821	-	(67,821)
510	Environmental Services	Appropriations from available balance for environmental and engineering services for Frank Ortiz Park *[CC apvd. 11/13/2024, #9-n]*	229,134	-	(229,134)
510	Environmental Services	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	58,131	-	(58,131)
511	Utilities Administration	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	31,220	-	(31,220)
515	Railyard Properties	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	3,230	-	(3,230)
520	Santa Fe Convention Center	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	23,684	-	(23,684)
525	Midtown Property	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	1,077	-	(1,077)
530	Municipal Recreation Complex	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	8,612	-	(8,612)

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
535	Parking	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	23,683	-	(23,683)
540	Transit Bus System	Appropriation from available balance to fund TripMaster Dispatch Management Software *[CC apvd. 10/30/2024, #9-h]*	381,166	-	(381,166)
540	Transit Bus System	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	65,668	65,668	-
545	Airport	Appropriation of NM DOT grant to fund the Airport Terminal Apron reconstruction project *[CC apvd. 10/30/2024, #9-n]*	6,089,700	6,089,700	-
545	Airport	Adjustment to re-budget remaining portion of prior year ARPA grant to fund purchase of machinery and various Airport CIP projects *[CC apvd. 8/30/23, #9-g]*	634,532	-	(634,532)
545	Airport	Appropriation from available balance to fund architectural services for the Airport Master Plan project *[CC apvd. 10/30/2024, #9-p]*	402,613	-	(402,613)
545	Airport	Appropriation from available balance to fund grooving of the Airport runway *[CC apvd. 10/9/2024, #10-a]*	250,000	-	(250,000)
545	Airport	Appropriation of NM DOT grant to fund Airport marketing projects *[CC apvd. 10/9/24, #9-i]*	79,000	71,100	(7,900)
545	Airport	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	26,913	-	(26,913)
550	Genoveva Chavez Community Ctr	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	35,526	35,526	-
600	Risk Management	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	3,230	-	(3,230)
605	Santa Fe Health/Dental Fund	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	3,230	-	(3,230)
620	Services to Other Departments	Appropriations from FY24 GRT earned in excess of budgeted estimates to support retention incentives of $1,000 per City employee *[CC apvd. 12/11/24, #9-dd]*	47,368	47,368	-
TOTAL - Budget Amendments Previously Approved by the Governing Body			***$ 33,783,952***	***$ 17,104,355***	***$ (16,679,597)***

CITY OF SANTA FE

2nd QUARTER FY 2024/25

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SUB-SECTION [B]

AMENDMENTS TO FY 2024/25 BUDGET PREVIOUSLY APPROVED BY OTHER CITY ACTORS PURSUANT TO SFCC 1987, SECTION 11-4 (A) AND (B)

CITY OF SANTA FE - SECOND QUARTER FY 2024/2025
SUB-SECTION [B]: BUDGET AMENDMENTS PREVIOUSLY APPROVED BY OTHER CITY ACTORS

Fund	*Fund Title*	*Amendment Description*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
223	Law Enforcement	Appropriation of additional NM Children, Youth & Family grant funding for the Juvenile Justice program	$ 949,026	$ 949,026	$ -
240	Community Development	Adjustment to re-budget remaining portion of prior year US Treasury ARPA grant & US HUD CDBG grants for direct support to non-profits	300,036	300,036	-
240	Community Development	Adjustment to re-budget remaining portion of prior year US Treasury ARPA grant for assistanance to vulnerable populations	145,271	145,271	-
240	Community Development	Re-appropriation of unspent prior year budget from the Affordable Housing Trust Fund for various ongoing housing support contracts	105,027	105,027	-
240	Community Development	Adjustment to re-budget remaining portion of prior year US Treasury ARPA grant for COVID-safe facilities retrofit projects	16,031	16,031	-
315	CIP Resource Conservation	Re-appropriation of unspent prior year budget for the ongoing citywide solarization project	555	555	-
330	CIP Streets & Roadways	Re-appropriation of unspent prior year budget for ongoing citywide streets CIP projects	209,858	-	(209,858)
355	CIP Parks and Trails	Re-appropriation of unspent prior year budget for various Streets, Parks, and Trails CIP projects	9,192,133	2,822,845	(6,369,288)
505	Water Management	Appropriation from available balance to cover remaining renovations to PUD building	60,000	-	(60,000)
505	Water Management	Appropriation from available balance to fund upgrade of an existing truck to a dump truck	50,000	-	(50,000)
505	Water Management	Appropriation from available balance to fund improvements to watershed access roads	21,763	-	(21,763)
505	Water Management	Appropriation from available balance to fund Public Utilities employee tuition, training, and travel	-	-	-
515	Railyard Properties	Re-appropriation of unspent prior year budget for ongoing facilities improvement/renovation CIP projects	158,734	-	(158,734)
520	Santa Fe Convention Center	Re-appropriation of unspent prior year budget in the Convention Center Capital Improvement Fund for ongoing projects	1,192,528	-	(1,192,528)
525	Midtown Property	Re-appropriation of unspent prior year budget for ongoing facilities improvement/renovation CIP projects	75,700	-	(75,700)
525	Midtown Property	Adjustment to re-budget DFA grants for the Midtown Redevelopment Project	60,000	60,000	-
540	Transit Bus System	Budget correction to Transit for professional contracts administration for the remainder of the FY	45,000	-	(45,000)
620	Services to Other Departments	Adjustment of ITT internal service charges to Planning & Land Use for new hardware	14,600	14,600	-
620	Services to Other Departments	Adjustment of ITT internal service charges to Water Division for hardware purchases	1,000	1,000	-
TOTAL - Budget Amendments Previously Approved by Other City Actors			***$ 12,597,262***	***$ 4,414,391***	***$ (8,182,871)***

CITY OF SANTA FE

2nd QUARTER FY 2024/25

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SUB-SECTION [C]

JOINT OPERATIONS (BUCKMAN DIRECT DIVERSION & SF SOLID WASTE MANAGEMENT AGENCY) – BOARD-APPROVED AMENDMENTS TO FY 2024/25 BUDGET

CITY OF SANTA FE - SECOND QUARTER FY 2024/2025
SUB-SECTION [C]: JOINT OPERATIONS - BOARD-APPROVED BUDGET AMENDMENTS

Fund	*Fund Title*	*Amendment Description*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
800	Buckman Direct Diversion	Appropriation from the BDD Repair & Replacement/Settlement Fund for ongoing post-litigation legal services	$ 200,000	$ 200,000	$ -
801	BDD Repair & Replacement Fund	Appropriation from the BDD Repair & Replacement/Settlement Fund for ongoing post-litigation legal services	200,000	-	(200,000)
810	SF Solid Waste Mgmt Agency	Appropriation from available balance for a contracted service and rate design study	83,900	-	(83,900)
TOTAL - Joint Operations - Board Approved Budget Amendments			***$ 483,900***	***$ 200,000***	***$ (283,900)***

CITY OF SANTA FE

2nd QUARTER FY 2024/25

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SUB-SECTION [D]

SUMMARY OF ALL QUARTERLY AMENDMENTS TO FY 2024/25 BUDGET BY FUND

CITY OF SANTA FE - SECOND QUARTER FY 2024/2025
SUB-SECTION [D]: TOTAL QUARTERLY AMENDMENTS BY FUND

Fund	*Fund Title*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
100	General Fund	$ 1,797,270	$ 90,203	$ (1,707,067)
212	Economic Development	2,154	2,154	-
213	Lodgers' Tax Fund	29,066	-	(29,066)
221	Emergency Services	522,150	519,996	(2,154)
223	Law Enforcement	1,699,153	1,699,153	-
231	City Drainage Fund	1,028,552	857,540	(171,012)
232	Impact Fees Fund	645,757	-	(645,757)
233	Transportation Grants	3,230	-	(3,230)
240	Community Development	567,442	566,365	(1,077)
241	Senior Citizen Grants/Programs	37,766	12,243	(25,523)
251	Library Fund	13,995	-	(13,995)
256	Recreation Fund	211,385	192,008	(19,377)
315	CIP Resource Conservation	500,588	500,588	-
320	CIP Facilities	550,000	550,000	-
330	CIP Streets & Roadways	1,120,547	910,689	(209,858)
355	CIP Parks and Trails	15,602,133	9,232,845	(6,369,288)
365	½% GRT Income Fund	18,302	-	(18,302)
500	Waste Water Management	8,105,991	-	(8,105,991)
505	Water Management	3,980,454	-	(3,980,454)
510	Environmental Services	287,265	-	(287,265)
511	Utilities Administration	31,220	-	(31,220)
515	Railyard Properties	161,964	-	(161,964)
520	Santa Fe Convention Center	1,216,212	-	(1,216,212)
525	Midtown Property	136,777	60,000	(76,777)
530	Municipal Recreation Complex	8,612	-	(8,612)
535	Parking	23,683	-	(23,683)
540	Transit Bus System	491,834	65,668	(426,166)
545	Airport	7,482,758	6,160,800	(1,321,958)
550	Genoveva Chavez Community Ctr	35,526	35,526	-
600	Risk Management	3,230	-	(3,230)
605	Santa Fe Health/Dental Fund	3,230	-	(3,230)
620	Services to Other Departments	62,968	62,968	-
800	Buckman Direct Diversion	200,000	200,000	-
801	BDD Repair & Replacement Fund	200,000	-	(200,000)
810	SF Solid Waste Mgmt Agency	83,900	-	(83,900)
QUARTERLY TOTAL - ALL FUNDS		***$ 46,865,114***	***$ 21,718,746***	***$ (25,146,368)***

FIR No. 10655.1

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Second Quarter Budget Amendments, Fiscal Year 2024/2025

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): Finance Department

Staff Completing FIR: Andy Hopkins Date: 2/10/2025 Phone: (505) 955-6177

Reviewed by City Attorney: _____ Date: Feb 17, 2025

Reviewed by Finance Director: Emily K. Oster Date: Feb 17, 2025

Summary:
The purpose of the Resolution is to approve Buckman Direct Diversion and Santa Fe Solid Waste Management Agency budget adjustments and request the Department of Finance Authority to approve Second Quarter FY 2025 budget amendments in the form of increases and decreases to various funds, which include adjustments for department priorities, grant adjustments, prior year encumbrances, and increases supported by available revenue.

Departments Affected:
Various.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City's budget will not sufficiently reflect the City's actual revenues and expenditures. Adjustments would not be submitted to the New Mexico Department of Finance Administration's approval, as is required by New Mexico State law, NMSA 1978, Section 6-6-2(H).

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

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

Fiscal Implications:
See Resolution, Exhibit A –City of Santa Fe 2nd Quarter FY 2024-25 Budget Amendments.

Fiscal Impact
_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 25	FYE 26	FYE 27	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$ †	$ 0	$ 0	N	NR	†	
Capital Outlay	$ †	$ 0	$ 0	N	NR	†	
Contractual/ Professional Services	$ †	$ 0	$ 0			†	
Operating	$ †	$ 0	$ 0			†	
Total:	$ †	$ 0	$ 0			†	$ †

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

Expenditure Narrative:

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

Revenue

Revenue Type	FYE 25	FYE 26	FYE 27	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$ †	$ 0	$ 0	NR	†
Special Revenue	$ †	$ 0	$ 0	NR	†
CIP	$ †	$ 0	$ 0	NR	†
Enterprise	$ †	$ 0	$ 0	NR	†
Internal Service	$ †	$ 0	$ 0	NR	†
Trust & Agency	$ †	$ 0	$ 0	NR	†
Federal	$ †	$ 0	$ 0	NR	†
Other	$ †	$ 0	$ 0	NR	†
Total	$ †	$ 0	$ 0		

Revenue Narrative:

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

† ***See Exhibit A – Resolution Detail by Fund***

Signature: Andy Hopkins

Email: ajhopkins@santafenm.gov

Signature:

Email: cfmartinez@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: February 10, 2025

To: Governing Body, Public Works and Utilities Committee, Finance Committee

From: Romella Glorioso-Moss, Complete Streets Capital Projects Manager RGM

Via: Regina Wheeler, Public Works Department Director RW

RE: C5233359 Governor Miles Road Improvement Authorized Representatives and Agents

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EXECUTIVE SUMMARY:

The Resolution designates authorized representatives and agents for an agreement with New Mexico Department of Finance and Administration (DFA), regarding appropriation ID Number H3359 and New Mexico Department of Transportation (NMDOT) Control Number C5233359 ("Grant Agreement"). The Grant Agreement makes available two hundred ten thousand dollars ($210,000), appropriated by the New Mexico State Legislature for a project to acquire rights of way and to plan, design, construct, and improve Governor Miles Road from Richards Avenue to Nizhoni Drive.

BACKGROUND:

The New Mexico Department of Transportation, through Article X.B. (v) of the Grant Agreement, requires that the City of Santa Fe as the grantee, to agree that the "governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment". Adoption of this Resolution will satisfy this requirement and allow the City to enter into the Grant Agreement. The Grant Agreement will be presented to the Governing Body in an action separate from this Resolution; and this Resolution will not be implicated if the Governing Body does not later approve the grant agreement.

ATTACHMENTS:

Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2025-__

INTRODUCED BY:

Councilor Amanda Chavez

A RESOLUTION

AUTHORIZING REPRESENTATIVES AND AGENTS FOR AN AGREEMENT WITH THE NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION, REGARDING APPROPRIATION ID NUMBER H3359, NEW MEXICO DEPARTMENT OF TRANSPORTATION CONTROL NUMBER C5233359, TO ACQUIRE RIGHTS OF WAY AND TO PLAN, DESIGN, CONSTRUCT, AND IMPROVE GOVERNOR MILES ROAD FROM RICHARDS AVENUE TO NIZHONI DRIVE.

WHEREAS, in the Laws of 2023, Chapter 199, Section 33, Subsection 93, the New Mexico Legislature made an appropriation to the New Mexico Department of Transportation ("NMDOT"), for funds from which NMDOT is making available to the City of Santa Fe ("Grantee" OR "City") through the New Mexico Department of Finance and Administration Appropriation Number H3359, NMDOT Control Number C5233359 ("Agreement"), incorporated as Attachment A, in the amount of two hundred ten thousand dollars ($210,000), to acquire rights of way and to plan, design, construct, and improve Governor Miles Road from Richards Avenue to Nizhoni Drive

in the city of Santa Fe in Santa Fe County (the "Project"); and

WHEREAS, Article X. B. (v) of the Agreement, states that "the Grantee's governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment", and adopting this resolution will satisfy this requirement; and

WHEREAS, in a letter dated August 24, 2023, the New Mexico Department of Finance and Administration ("DFA") took the position that it required the City to initiate a fiscal agent relationship in order for the City to utilize its current State Capital appropriations, and DFA renewed this position in a letter dated August 20, 2024, for all current Capital outlay appropriations; and

WHEREAS, as a result of the DFA's position, the City entered into a governmental services agreement, incorporated as Attachment B, with North Central Economic Development District ("NCEDD") for fiscal agent services, in which NCEDD agreed to review and sign Requests for Payment for permissible expenditures, on December 19, 2023; and

WHEREAS, Amendment No. 1 to the Intergovernmental Service Agreement, Item No. 23-H3359, included as part of Attachment B, includes the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the following provisions shall apply to the Agreement:

A. The person listed below, or their successor, is the Grantee's official representative authorized to sign the Agreement:

Grantee: City of Santa Fe

Name: Alan Webber

Title: Mayor

Address: PO Box 909

Santa Fe, NM 87504-0909

Email: mayor@santafenm.gov

Telephone: (505) 955-6590

B. The person listed below, or their successor, is the Grantee's Fiscal Officer of Fiscal Agent concerning reviewing and signing Requests for Payments for permissible expenditures:

Grantee: City of Santa Fe

Name: Felicity Fonseca

Title: Community Development Director, North Central New Mexico Economic Development District

Address: 644 Don Gaspar Ave.

Santa Fe, Nm 87505

Email: felicityf@ncnmedd.com

Telephone: (505) 356-9098

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

ANDRÉA SALAZAR, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

DocuSign Envelope ID: CF79DCAF-EEA8-4A2D-98E2-5C457360FACE

Attachment A

Contract Number: _____
Vendor Number: 0000054360
Control Number: C5233359

STATE OF NEW MEXICO
DEPARTMENT OF TRANSPORTATION
FUND 93100 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is between the Department of Transportation, hereinafter called the "Department" or abbreviation such as "NMDOT", and City of Santa Fe, hereinafter called the "Grantee". This Agreement is effective as of the date of the last party to sign it on the signature page below.

RECITALS

WHEREAS, in the Laws of 2023, HB505, Chapter 199, Section 33, Subsection 93, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to the NMSA 1978, Section 67-3-28, as amended, and State Highway Commission Policy No. 44, the Department has the authority to enter into this Grant Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

DFA Appropriation ID H3359 NMDOT Control Number C5233359 **$210,000**
APPROPRIATION REVERSION DATE: 6/30/2027
Laws of 2023, Chapter 199, Section 33, Subsection 93, Two Hundred Ten Thousand Dollars and No Cents ($210,000), to acquire rights of way and to plan, design, construct and improve Governor Miles road from Richards avenue to Nizhoni drive in Santa Fe in Santa Fe county; .

The Grantee's total reimbursements shall not exceed Two Hundred Ten Thousand Dollars and No Cents $210,000 (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")[1], if

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.

applicable, Zero Dollars and No Cents ($ 0.00), which equals Two Hundred Ten Thousand Dollars and No Cents (**$210,000**) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." Optional Attachment A sets forth additional or more stringent requirements and conditions, which are incorporated by this reference as if set forth fully herein. If Optional Attachment A imposes more stringent requirements than any requirement set forth in this Agreement, the more stringent requirements of Attachment A shall prevail, in the event of irreconcilable conflict. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:
   a. must be approved by the applicable oversight entity (if any) in accordance with law; or
   b. if no oversight entity is required to approve the transaction, the Department must approve the transaction as complying with law.

[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor, as their official representative(s) concerning all matters related to this Agreement:

Grantee: City of Santa Fe

Name: David Chapman
Title: Grants Administrator
Address: P.O. Box 909, Santa Fe, New Mexico 87504
Email: dachapman@ci.santa-fe.nm.us
Telephone: 505-955-2012

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement:

Grantee: _____
Name: _____
Title: _____
Address: _____
Email: _____
Telephone: _____

The Department designates the persons listed below, or their successors, as the Points of Contact for matters related to this Agreement.

Department: Department of Transportation District 5 Office
Name: Amanda Nino
Title: Capital Outlay District Coordinator
Address: P.O. Box 4127, Santa Fe, NM 87502
Email: Amanda.Nino@dot.nm.gov
Telephone: 505-660-6357

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2027 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date

particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii) Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database Reporting

The Grantee shall report quarterly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (Budget & Formulation Management System). Additionally, the Grantee shall certify on the Request for Payment form (Exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Quarterly reports shall be due on the last day of the month that is 30 days prior to the end of the quarter following execution of this Agreement by the Department and ending during the quarter of the submission of the final request for reimbursement for the Project, or the following quarter.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project.

Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. **Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum thirty (30) days from when the expenditure was incurred or liability of the Grantee was ~~a~~pproved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) Twenty (20) days from date of Early Termination; or

(iii) Twenty (20) days from the Reversion Date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in

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Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Wage Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years from the date of this agreement convert any property acquired, built, renovated, repaired, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance, written approval, which may include a requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the

subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a “non-appropriations” clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

“The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the Department of Transportation or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under a Department of Transportation Grant Agreement. Should the Department of Transportation early terminate the grant agreement, the City of Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V(A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that the SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the

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requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this Agreement is subject to the SBOF's Bond Project Disbursements rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

GRANTEE

_____
Signature of Official with Authority to Bind Grantee

_____
Entity Name

By: _____
(Type or Print Name)

Its: _____
(Type or Print Title)

_____
Date

DEPARTMENT OF TRANSPORTATION

_____
By:

Its: Cabinet Secretary or Designee

_____
Date

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE DEPARTMENT'S OFFICE OF GENERAL COUNSEL

DocuSigned by:
Sundeepet kaur
CBDDF719FE734A2...
By: Aaron Frankland or Designee

Its: Deputy General Counsel

04/22/24
Date

IN WITNESS WHEREOF, the parties have executed this Capital Appropriation Project as of the dates set forth below.

CITY OF SANTA FE:

SEE ABOVE

_____

ALAN WEBBER, MAYOR

ATTEST:

_____

GERALYN CARDENAS, INTERIM CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Jun 14, 2024 09:16 MDT)

_____

SENIOR ASSISTANT CITY ATTORNEY

FINANCE DIRECTOR:

_____

EMILY OSTER

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STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee:

B. Address:

(Complete Mailing, including Suite, if applicable)

City State Zip

C. Phone No:

D. Grant No:

E. Project Title:

F. Grant Expiration Date:

II. Payment Computation

A. Payment Request No.

B. Grant Amount:

C. AIPP Amount *(If Applicable)*:

D. Funds Requested to Date:

E. Amount Requested this Payment:

F. Reversion Amount (If *Applicable*):

G. Grant Balance:

H. ☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)

I. ☐ Final Request for Payment (*if Applicable*)

III. Fiscal Year :

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☐ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☐ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or **Fiscal Agent** (*if applicable*)

Printed Name

Date:

Grantee Representative

Printed Name

Date:

(State Agency Use Only)

Vendor Code: **Fund No.:** **Loc No.:**

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer Date

Division Project Manager Date

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NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee [# 1]

DATE: [_____]

TO: Department Representative: [_____,_____]
FROM: Grantee: [_____]
Grantee Official Representative: [_____]

SUBJECT: Notice of Obligation to Reimburse Grantee
Grant Number: [_____]
Grant Termination Date: [_____]

As the designated representative of the Department for Grant Agreement number [_____] entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

Vendor or Contractor: [_____]
Third Party Obligation Amount: [_____]

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): [_____]
The Amount of this Notice of Obligation: [_____]
The Total Amount of all Previously Issued Notices of Obligation: [_____]
The Total Amount of all Notices of Obligation to Date: [_____]
Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: [_____]
Title: [_____]
Signature: [_____]
Date: [_____]

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

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NMDOT ATTACHEMNT A

The City of Santa Fe shall agree to comply with the following Provisions:

1. Assume the lead role for the Project.
2. Be responsible for all applicable design, environmental and archaeological clearances, and right-of-way acquisition, in accordance with current local, state, federal laws, Uniform Relocation Act, and current design practices and specifications.
3. Be responsible for project development, project construction, construction management, and testing.
4. Utilize the Project Control Number in all correspondence and submittals to the Department.
5. Adopt a written resolution of support for the Project, including as applicable an assumption of ownership, liability, and maintenance responsibility for the scope, or related amenities and required funding to support the Project.
6. Complete the Project using current American Public Works Association (APWA) specifications, implemented Grantee's design standards and specifications, or Department specifications.
7. Use Rental Rate Blue Book rates, if not provided in the Department established equipment rates, in the implementation of this Project. Any equipment rates not found in the Department established rates shall be reimbursed at the Blue Book rates.

The City of Santa Fe shall agree to comply with the following Lighting and Signal Provisions as applicable:

1. After subject signal system(s) has/have been constructed, make provisions for and provide, at its own expense, all electrical energy, routine maintenance such as lamp replacement, emergency shutdown in case of accidental damage or equipment failure and make any repairs necessary due to accidental damage to, or equipment failure of, the signal head and poles.
2. In the event that accidental damage or equipment failure should occur, provide for equipment shut down/or emergency traffic control as needed. In addition, should the accidental damage or equipment failure involve the Controller (and cabinet) or the loop detection system, promptly notify the Traffic Technical Support Bureau of the Department.
3. In the event that the traffic signal should be rendered completely inoperable as a result of accidental damage, secure the intersection with stop signs at all approach legs until such time as the traffic signal is made operable.
4. Make ample future provisions in its budget each year for the cost of maintaining and providing energy to the traffic signals and telephone service to the signal system and intersection lighting.
5. At its own expense, maintain the signal controller and control equipment (the "Controller") including and maintenance of the machine vision vehicle detection system with cameras and emergency vehicle pre-empt system and repair or replace the Controller in the event the Controller and/or cabinet is damaged or there is an equipment failure.
6. After the installation of the roadway lighting system, if any, provide any and all utilities, maintenance, and such other items as may be necessary of continued satisfactory operation of said subject lighting system.
7. Make all timing adjustments to the Signal Control equipment and review the Signal System(s) for efficient and satisfactory operation.
8. Obtain approval from the Department for all signal equipment prior to installation.
9. Require the construction contractor to name the Department and the Grantee as an additional insured in the construction contractor's general liability policy.
10. Enter into a Signalization and Lighting Agreement with the Department's Traffic Technical Support Bureau as required.

DocuSign Envelope ID: CF79DCAF-EEA8-4A2D-98E2-5C457360FACE

1.

INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN CITY OF SANTA FE AND
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
FOR FISCAL AGENT SERVICES

WHEREAS, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe ("City") to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below ("Projects");

WHEREAS, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

WHEREAS, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District ("NCNMEDD") in providing fiscal agency services in relation to the Projects.

NOW, THEREFORE, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

A. PURPOSE

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
F2903	2021	SANTA FE MIDTOWN INFRA DES CONSTRUCT	2021	138	29/344	341	Finance & Administration	1,000,000	to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;
F2899	2021	SANTA FE HOMEBOUND MEALS PROGRAM IMPROVE	2021	138	29/340	341	Finance & Administration	250,000	to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;
F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

B. SCOPE OF WORK

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.

2. City Role and Responsibilities
   - City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

C. TIMEFRAME

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

D. COMPENSATION:

NCNMEDD has agreed to provide the agreed upon services at three percent (3%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

E. RECORDS AND RECOVERY:

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

F. ACCESS TO INFORMATION

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

G. OWNERSHIP OF PROJECTS

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

H. LIMITATION OF LIABILITY

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

I. MODIFICATION AND TERMINATION

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

J. CERTIFICATION

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

K. ADEQUATE APPROPRIATIONS

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

L. PENALTIES

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

M. 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: City
City Manager John Blair
City of Santa Fe
200 Lincoln
Santa Fe, New Mexico, 87501j

To NCNMEDD:
Monica Abeita Executive Director NCNMEDD
3900 Paseo del Sol
Santa Fe, NM 87507

N. DISPUTE RESOLUTION

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

O. BREACH AND DEFAULT

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

P. ASSIGNMENT

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 19th DAY OF December, 2023, BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

Monica Abeita, Executive Director Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Dec 19, 2023

ATTEST:

Geralyn Cardenas (Dec 19, 2023 14:06 MST)

GERALYN CARDENAS, INTERIM CITY CLERK XIV

GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry

Erin McSherry (Dec 8, 2023 13:36 MST)

ERIN MCSHERRY, CITY ATTORNEY

Munis Contract#_____
Original Contract Item#___23-0688____
SWPA/GSA/Coop/RFP/ITB #: _____

CITY OF SANTA FE
AMENDMENT No. 1 TO
Intergovernmental Service Agreement
ITEM#23-0688

This AMENDMENT No 1 (the "Amendment") amends the INTERGOVERNMENTAL SERVICES AGREEMENT BETWEEN CITY OF SANTA FE AND NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT FOR FISCAL AGENT SERVICES, dated December 19, 2023 (the "Agreement"), between the City of Santa Fe (the "City") and the North Central New Mexico Economic Development District (NCNMEDD). The date of this Amendment shall be the date when it is executed by the City and the NCNMEDD whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, the NCNMEDD has agreed to provide fiscal agent services in connection with the Capital Projects specified under the Agreement.

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

1. PURPOSE:

Article A of the Agreement is amended to add an additional twenty-two (22) Capital appropriations as seen on Exhibit A.

2. COMPENSATION:

Article D, of the Agreement is amended in its entirety as follows:

NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from these Capital appropriations to make such payments.

3. CONTRACT 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 (Mar 14, 2024 10:01 MDT)

ALAN WEBBER, MAYOR

DATE: Mar 14, 2024

NCNMEDD

Monica Abeita

MONICA ABEITA
EXECUTIVE DIRECTOR

Executive Director
TITLE

DATE: Feb. 20. 2024

ATTEST:

Geralyn Cardenas (Mar 14, 2024 11:32 MDT)

GERALYN CARDENAS, INTERIM CITY CLERK

GB MTG 03/13/2024 XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Feb 16, 2024 13:08 MST)

SENIOR ASSISTANT CITY ATTORNEY

EXHIBIT A

Approp ID	Leg. Session	Appropriation Title	Approp. Amount	Reversion Date	Agency	Bond Series
22-G2419	2022	Jemez Road Construction	$ 400,000	6/30/2026	NMED	STB23SC
22-G3010	2022	SF Fire Fleet Equip / Upgrade Improv	$ 120,000	6/30/2026	DFA	STB23SC
22-G3012	2022	Harrison Rd Improve Construct	$ 100,000	6/30/2026	DFA	STB23SC
22-G3016	2022	Homebound Meals Program Improve	$ 200,000	6/30/2026	DFA	STB23SC
22-G3017	2022	Midtown Property Infra Improve	$ 1,100,000	6/30/2026	DFA	STB23SC
22-G3018	2022	SWAN Park Phase 2 Construct	$ 380,000	6/30/2026	DFA	STB23SC
22-G3019	2022	Tierra Contenta Trail Improve	$ 300,000	6/30/2026	DFA	STB23SC
22-G3165	2022	Median Beautify Phase 1 Design	$ 1,170,000	6/30/2026	DOT	STB23SC
22-G3169	2022	Governor Miles Rd. Construct	$ 300,000	6/30/2026	DOT	STB23SC
22-G3170	2022	Pacheco Street Improve	$ 150,000	6/30/2026	DOT	STB23SC
G22-5353	2022	Mary Esther Gonzales Senior Ctr- Equip	$ 235,630	6/30/2026	ALTSD	STB22SC- GO Bonds
G22-5354	2022	Pasatiemo Senior Ctr- Equip	$ 65,805	6/30/2026	ALTSD	STB22SC- GO Bonds
23-H3200	2023	Santa Fe Building Upgrade	$ 210,000	6/30/2027	DFA	General Fund
23-H3201	2023	SF Fire Station #2 Construction	$ 3,995,000	6/30/2027	DFA	General Fund
23-H3202	2023	SF Homebound Meals Faculty Ren	$ 200,000	6/30/2027	DFA	General Fund
23-H3203	2023	SF Midtown Infa. Improvement	$ 4,900,000	6/30/2027	DFA	General Fund
23-H3204	2023	SF Muni Rec Sports Cmplx Field Const.	$ 50,000	6/30/2027	DFA	General Fund
23-H3205	2023	SF Pickleball Cmplx Ft. Marcy Constr.	$ 650,000	6/30/2027	DFA	General Fund
23-H3206	2023	SF SWAN Park Phase 2 Improvement	$ 2,400,000	6/30/2027	DFA	General Fund
23-H3207	2023	SF Water History Park Improvement	$ 350,000	6/30/2027	DFA	General Fund
23-H3359	2023	Governor Miles Road Improvement	$ 210,000	6/30/2027	DOT	General Fund
23-H3360	2023	Pacheco Street Improvement	$ 350,000	6/30/2027	DOT	General Fund

INTERGOVERNMENTAL SERVICES AGREEMENT
BETWEEN CITY OF SANTA FE AND
NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
FOR FISCAL AGENT SERVICES

WHEREAS, the State of New Mexico appropriated funding for the purposes of improvements in the City of Santa Fe ("City") to the State of New Mexico, Department of Finance and Administration, Local Government Division, in the laws of Laws of 2021, Chapter 138, as detailed below ("Projects");

WHEREAS, NCNMEDD acknowledges that the appropriations for the Projects are intended for City;

WHEREAS, City, a municipality within Santa Fe County and the State of New Mexico, agrees to engage North Central New Mexico Economic Development District ("NCNMEDD") in providing fiscal agency services in relation to the Projects.

NOW, THEREFORE, the parties do mutually agree as follows:

This Agreement is entered into by and between City and NCNMEDD pursuant to the following purposes, conditions, and terms:

A. PURPOSE

The purpose of this Agreement is for NCNMEDD to provide fiscal agent services in connection with the Projects as specifically appropriated under New Mexico Legislative Appropriation Agreements identified as follows:

ApprID	Leg. Session	Appropriation Title	Year	Ch	Sect	Agency		Amount	Project Description
F2900	2021	SANTA FE PARKS UPGRADE	2021	138	29/341	341	Finance & Administration	1,000,000	to plan, design, construct, repair, improve and equip parks in Santa Fe in Santa Fe county;
F2902	2021	SANTA FE TIERRA CONTENTA TRAIL CONSTRUCT	2021	138	29/343	341	Finance & Administration	300,000	to plan, design and construct a trail in the Tierra Contenta subdivision in Santa Fe in Santa Fe county;
F2903	2021	SANTA FE MIDTOWN INFRA DES CONSTRUCT	2021	138	29/344	341	Finance & Administration	1,000,000	to plan, design, construct and improve infrastructure for the midtown Santa Fe property in Santa Fe in Santa Fe county;
F2899	2021	SANTA FE HOMEBOUND MEALS PROGRAM IMPROVE	2021	138	29/340	341	Finance & Administration	250,000	to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;
F2901	2021	SANTA FE SOUTHSIDE TEEN CTR CONSTRUCT	2021	138	29/342	341	Finance & Administration	1,805,000	to plan, design, construct, furnish and equip a teen and resource center on the south side of Santa Fe in Santa Fe county;

Other projects may be included as agreed upon in writing and by amendment between the Parties.

B. SCOPE OF WORK

NCNMEDD's services in support of the above purpose shall be to provide fiscal agency services associated with the Projects, including:

1. NCNMEDD Fiscal Agency Services:

- Ensure that grant funds are expended in compliance with all applicable laws, regulations, and grant agreement and the transactions are appropriately accounted for in compliance with such laws, regulations, and grant agreement;
- Ensure safeguarding of grant funds and assets acquired with grant funds and proper accounting thereof in compliance with applicable laws, regulations, and grant agreement;
- Act as liaison between City and appropriate New Mexico state agencies as needed;
- Complete all required quarterly and financial reporting with information provided by City;
- Review and sign-off on project invoices to the appropriate State agency in a timely manner; and

- Work with the State on providing direct project reimbursements to City and act as a facilitator for such reimbursements as needed.

2. City Role and Responsibilities
   - City understands it remains ultimately responsible for executing and complying with all applicable laws, regulations, and grant agreement requirements such as flow down provisions, executing procurement responsibilities, and subcontractor management, as well as project, grant, and financial management.

C. TIMEFRAME

Work pursuant to this Agreement shall be effective no sooner than the date of last party signature below, and shall conclude upon notice by either party pursuant to paragraph I, but no later than one month following the reversion date of the appropriations, except as amended and mutually agreed upon in writing.

D. COMPENSATION:

NCNMEDD has agreed to provide the agreed upon services at three percent (3%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects, as those amounts were appropriated. Billing for services to City shall occur by NCNMEDD no more than on a monthly basis. The City will not use funds from this grant to make such payments.

E. RECORDS AND RECOVERY:

NCNMEDD shall maintain appropriate records of services rendered during the Agreement term and retain them for a period of three (3) years after the grant has been closed.

F. ACCESS TO INFORMATION

City and its contractors and subcontractors shall provide information, as needed, for purposes and work described in this Agreement. NCNMEDD will be included and copied on all invoices and reports, prior to City's submission to the appropriate State agency.

G. OWNERSHIP OF PROJECTS

All documents, capital improvements, and project assets produced pursuant to this Agreement shall be the property of City which shall assume full administrative responsibility for the life of the project; or the State grant agreement required period, whichever comes first.

H. LIMITATION OF LIABILITY

This Agreement shall not create a general liability of the constituent members of NCNMEDD.

City shall hold NCNMEDD harmless with respect to any damages, expenses, or claims arising or in connection with any negligent acts, errors, or omissions performed by City under this Agreement. This term shall not limit NCNMEDD liability with respect to NCNMEDD's negligence or willful misconduct.

I. MODIFICATION AND TERMINATION

Any modifications or amendments to this Agreement shall be in writing, and when signed by both parties shall be made part of the Agreement. This Agreement may be terminated by either party upon thirty (30) days written notice to the other.

J. CERTIFICATION

City shall comply with the requirements of all applicable laws, rules, and regulations, and shall assume full responsibility for payment of federal, state, and local taxes and contributions imposed or required under Social Security, Workers Compensation and income tax laws. City is required to follow all State procurement regulations and it is City obligation and responsibility to follow all State requirements as certified in the project bond questionnaire process and as included in associated State grant agreements, including reporting and drawdown requirements, such documents to be filed for each project in conjunction with this agreement.

K. ADEQUATE APPROPRIATIONS

Performance of this agreement is contingent upon sufficient appropriations and authorization being made for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate immediately upon written notice being given by NCNMEDD to City. NCNMEDD's decision as to whether sufficient appropriations are available shall be accepted by City and shall be final. If NCNMEDD proposes an amendment to the Agreement to unilaterally reduce its Fiscal Agency Services, City shall have the option to terminate the Agreement or agree to negotiate for reduced Fiscal Agency Services: within thirty (30) days of receipt of the proposed amendment.

L. PENALTIES

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

M. 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: City
City Manager John Blair
City of Santa Fe
200 Lincoln
Santa Fe, New Mexico, 87501j

To NCNMEDD:
Monica Abeita Executive Director NCNMEDD
3900 Paseo del Sol
Santa Fe, NM 87507

N. DISPUTE RESOLUTION

The parties to this agreement agree that in the event of a dispute that may arise hereunder, which dispute cannot be reasonably resolve, they will submit to mediation by a neutral mediator, the cost of which will be borne equally by both parties. Disputes that cannot be resolved by mediation shall be subject to the laws of the State of New Mexico under the jurisdiction of the First Judicial District Court.

O. BREACH AND DEFAULT

If either party commits a breach or default in the performance or observance of any of its obligations under this agreement and such breach or default continues and is not corrected within thirty (30) days of written notification of such breach or default by either party to the other, the non-breaching or non-defaulting party shall have the right to terminate this agreement by giving notice to the breaching or defaulting party.

P. ASSIGNMENT

No portion of this agreement may be assigned to another party without the express written consent of the City and NCNMEDD.

APPROVED THIS 19th DAY OF December, 2023, BY CITY.

NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT:

BY: Monica Abeita 12/8/23

Monica Abeita, Executive Director Date

IN WITNESS WHEREOF, the City of Santa Fe has agreed to this Waiver as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: Dec 19, 2023

ATTEST:

Geralyn Cardenas (Dec 19, 2023 14:06 MST)

GERALYN CARDENAS, INTERIM CITY CLERK XIV

GB MTG 12/13/23

CITY ATTORNEY'S OFFICE:

Erin McSherry

Erin McSherry (Dec 8, 2023 13:36 MST)

ERIN MCSHERRY, CITY ATTORNEY

Emily K. Oster

Finance Director

FIR No. 10643.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** _____ **Resolution:** X

Short Title(s): Authorized Representatives and Agents for DFA Appropriation ID Number H3360, NMDOT Control Number C5233360

Sponsor(s): Councilor Amanda Chavez

Reviewing Department(s): Public Works Department

Staff Completing FIR: Regina Wheeler, Public Works Director **Date:** 1/31/2025 **Phone:** (505) 690-4197

Reviewed by City Attorney: _____ **Date:** Feb 17, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 18, 2025

Summary:
The Resolution designates authorized representatives and agents for an agreement with New Mexico Department of Finance and Administration (DFA) about appropriation ID Number H3359, New Mexico Department of Transportation (NMDOT) Control Number C5233359 ("Grant Agreement"). The Grant Agreement makes available two hundred ten thousand dollars ($210,000), appropriated by the New Mexico Legislature, for a project to acquire rights of way and to plan, design, construct, and improve Governor Miles Road from Richards Avenue to Nizhoni Drive.

Departments Affected:
Public Works Department.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City of Santa Fe ("City") will not satisfy Article X. B. (v) of the Grant Agreement, which requires the Governing Body to adopt a resolution authorizing the person identified as the official representative of the City to sign the Grant Agreement and to sign Requests for Payment. Additionally, without the adoption of this Resolution the City would not receive NMDOT's funding in the amount of two hundred ten thousand dollars ($210,000).

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
The Governing Body will be approving the agreement through a separate action.

Performance and Administrative Implications:
Public Works Department Staff will acquire rights of way and to plan, design, construct, and improve Governor Miles Road from Richards Avenue to Nizhoni Drive in association with this Grant Agreement. Public Works Department and Finance Department staff will also administer the grant.

Fiscal Implications:

**Although there is not a fiscal impact for authorizing and naming agents, it is worth pointing out that Amendment No. 1 to the Intergovernmental Agreement states that "NCNMEDD has agreed to provide the agreed upon services at one percent (1%) of the dollar amount(s) the City expends during the term of this Agreement towards the completion of the Projects". If the City expends the total agreement amount of two hundred and ten thousand dollars ($210,000), then NCNMEDD will receive two thousand one hundred dollars ($2,100) as one percent (1%) of the expense. The Governing Body will approve the agreement through a separate action and will budget funds for fiscal agent fees in a separate action.

Fiscal Impact

___X___ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:
**See "Fiscal Implications" narrative above.

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature: Regina Wheeler
Regina Wheeler (Feb 19, 2025 08:10 MST)

Email: rawheeler@santafenm.gov

Signature: ROMELLA GLORIOSO-MOSS

Email: rsglorioso-moss@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: January 21, 2025

To: Governing Body, Public Works and Utilities Committee, Finance Committee

From: Peter Franklin, Modrall Sperling, as Bond Counsel the City

Via: Emily Oster, Finance Director EKO

RE: Clarifying Structure of NMED for Public Utilities Department

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EXECUTIVE SUMMARY:

This bill amends Ordinance No. 2024-6, adopted by the Governing Body on August 14, 2024, which authorized the City of Santa Fe ("City") to enter into a loan agreement with the New Mexico Environment Department ("NMED") to obtain project loan funds in the amount of one hundred and fifty-one million dollars and zero cents ($151,000,000.00) plus accrued interest. The purpose of the amendment is to authorize, in place of the single combined $151,000,000 loan agreement, three separate loan agreements. The three separate loan agreements include:

(1) a Wastewater Utility System Loan Agreement in the principal amount of $114,000,000, to be repaid from pledged Net Wastewater System revenue;

(2) a Water Utility System Loan Agreement in the principal amount of $17,000,000, to be repaid from pledged Net Water System revenue; and

(3) an Environmental Services Division Loan Agreement in the principal amount of $20,000,000, to be repaid from Net Environmental Services Division revenue.

The agreement described in Ordinance No. 2024-6 applies funding to three separate utility systems with a single loan. This bill replaces the current structure of a single loan agreement with three individual loan agreements, each of which will be applied to a single utility system, as described above. Each loan agreement will include the covenants and provisions applicable to the utility system being improved with the proceeds of the corresponding loan, which the City agreed to impose in connection with its outstanding Wastewater Utility System revenue bonds, Water Utility System revenue bonds, and Solid Waste Utility System debt obligations. The 0.01% interest rate, 30-year term, and all other material terms of the original combined $151,000,000 loan agreement, offered by NMED, and approved in Ordinance No. 2024-6, will apply to each separate loan.

BACKGROUND:

The City owns, operates, and maintains public utilities including a water utility system, a wastewater utility system, and solid waste collection system services performed by the Environmental Services Division. The current systems are inadequate to meet the needs of the City.

The projects in the three loan agreements include the following:

1. A Water Utility System Improvement project
   - CWSRF 140-),-the Nichols Dam Outlet Works Rehabilitation project, to plan, design, and construct the reconfiguration of the dam outlet, conduit joints, line conduit, and construction filter as well as dam embankment drainage improvements.

2. Wastewater Utility System projects, including:
   - CWSRF 140-C, the Ultraviolet (UV") Disinfection project, to plan, design, construct, and replace the UV disinfection system and equipment.
   - CWSRF 140-D, the Wastewater ("WW") Collections Equipment and Administration project to plan, design, and construct the relocation of the collections division sites (staff and equipment) to minimize response time, expense, and potential surface water contamination.
   - CWSRF 140-E, the Sewer Line Repair/Rehabilitation project to plan, design, and construct sewer line rehabilitation, including use of trenchless rehabilitation techniques, in the City.
   - CWSRF 140-F, the Wastewater Treatment Plan Repair and Rehabilitation project to rehabilitate, repair, and for the replacement of the wastewater treatment plant.

3. Environmental Services Division / Solid Waste Collection System project:

CWSRF 140-B, the Environmental Service Division ("ESD") project, to plan, design, and construct an administrative space, maintenance space, and storage area for the ESD, that will accommodate solid waste and curbside recycling collection vehicles and that will reduce or prevent industrial contamination due to storm water runoff.

ATTACHMENTS:

- Bill
- Fiscal Impact Report (FIR)
- Memo Attachment - Interim Wastewater Utility Loan Agreement, Supplement and Note
- Memo Attachment - Interim Water Utility Loan Agreement, Supplement and Note
- Memo Attachment - Interim Environmental Services Division Loan Agreement, Supplement and Note

Clean Water State Revolving Loan Fund Interim Loan Agreement

City of Santa Fe

$20,000,000 Environmental Services Division Loan Agreement

(Made pursuant to Funding Package consisting of
$151,000,000 total Loan at 0.01%

The following items are included as part of the funding agreement:

- **Financial Pages and NMED Project Conditions, General Conditions, and Covenants**
- **Covenants and Provisions Applicable to Net Environmental Services Division System Revenue Debt Obligations (Attachment 1)**
- **CWSRF Federal Requirements:**

Applies to All Projects:

- **Super Crosscutters**
- **Generally Accepted Government Accounting Practices**
- **Useful Life**
- **Office of the Inspector General Poster**
- **Cost and Effectiveness**

Applies only to Treatment Works Projects (UV Disinfection and Sewer Line Repair):

- **American Iron and Steel**
- **State Environmental Review Process**
- **Davis-Bacon Wage Rates**
- **Fiscal Sustainability Plan**

NEW MEXICO
ENVIRONMENT DEPARTMENT

INTERIM LOAN AGREEMENT
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
CLEAN WATER STATE REVOLVING LOAN FUND (CWSRF) –also known as-
WASTEWATER FACILITY CONSTRUCTION LOAN PROGRAM

Loan Number: CWSRF 140 A-F

Name of Borrower: **City of Santa Fe**

$20,000,000 Environmental Services Division Loan Agreement (made as part of total CWSRF Loan package of $151,000,000, Interest Rate: 0.01%

This Interim Loan Agreement (Agreement) between the New Mexico Environment Department (NMED) of the State of New Mexico and the City of Santa Fe (Borrower) becomes effective on the date signed by the NMED. Borrower has enacted Ordinance No. 2024-6 approved on August 14, 2024 (as amended by Ordinance No. 2025-___ approved on _____, 2025), hereinafter referred to as (the "Ordinance") which authorizes execution of this Agreement, authorizes the Borrower to accept loan funds from NMED, and irrevocably pledges the Environmental Services Funds (Pledged Funds) for the repayment of the loan.

Listed below are agency contacts.

Borrower's Name and Address: City of Santa Fe 200 Lincoln Avenue PO Box 909 Santa Fe, New Mexico 87504-0909	**NMED:** New Mexico Environment Department Clean Water State Revolving Fund Program P.O. Box 5469 Santa Fe, New Mexico 87505 NMENV-cpbinfo@state.nm.us
Borrower's Contact Information: _____, Public Utilities Director (505) 955-4650	**NMED Contact Information:** Stephanie DuBois, Project Engineer (505) 538-5539, stephanie.dubois@env.nm.gov Maria Molina, Program Administrator (505) 670-3876, maria.molina2@env.nm.gov

Jonna Leigh Stack, Project Administrator 505-955-4206 jlstack@santafenm.gov	Rhonda Holderman, Financial Manager, Loans and Grants (505) 363-9396, Rhonda.holderman@env.nm.gov
Emily K. Oster, Finance Director	
(505) 955-6171	
5ekoster@santafenm.gov	

Incorporated as part of this Agreement as though fully set forth in this Agreement is the following:

Borrower's Loan Ordinance
Interim Promissory Note
Proposed Loan Amortization Schedule
Project Description Form

I. Project Description:

A. Projects under this agreement include:

- Solid Waste Collections Division Equipment and Administration Building
- Environmental Services Division Maintenance and Administrative Building.

B. Borrower agrees that it will implement, in all respects, the project outlined in the attached Project Description, and made a part of this Agreement.

C. Borrower agrees to make no change in the Project Description without first submitting a written request to NMED and obtaining NMED's written approval of the required change, and if necessary, an amended loan agreement.

II. Loan Amount:

NMED agrees to loan funds to the Borrower to pay for approved costs to plan, acquire and construct the Project, in an amount not to exceed: $20,000,000_____(Environmental Services Division Loan Amount) at the **interest rate of 0.01% annually** upon the terms and conditions set forth in this Agreement and the Interim Promissory Note.

Provided the Borrower complies with the Construction Conditions and the CWSRF Requirements below, the loan amount will be available for a period of three **(3) years** from the date of this Agreement. Subject to completion of the Project within the three (3) year construction period, Borrower shall determine the construction schedule for the project in its reasonable discretion.

III. Funding:

A. Project interest accrues during construction at **0.01%** annually from thedate of each disbursement from NMED to the Borrower up to the date the final

disbursement request is approved by NMED. The interest accrued during construction, if applicable, shall be payable as follows:

1. Project Interest shall be due and payable in one lump sum within two weeks of receiving notice of final loan amount from the NMED, or

2. Project Interest shall be added to the loan amount disbursed and shall become part of the principal due during the term of the Final Promissory Note.

B. FINANCE COSTS

Finance costs, if applicable, will be determined upon the issuance of the Final Loan Agreement and will be based on the final amount loaned, accrued project interest and agreed upon repayment terms.

C. REPAYMENT TERMS

Repayment terms will be determined upon issuance of the Final Loan Agreement. Any loan term must be substantiated by the Borrower, and the loan term shall not exceed the average economic life of the project as a whole. Repayment will begin not less than one year after project completion. Repayment need not be based on level payments of principal and interest, but may instead be structured to address Borrower's needs with respect to cash flow, anticipated utility rate increases, and other relevant factors, in Borrower's discretion; provided, that structured repayments shall not be interest-only, but shall include annual amortization of a portion of unpaid principal and payment of interest.

The Borrower may pay off ("Prepay") all or any part of the loan at any time following delivery of written notice to NMED of Borrower's election to Prepay, specifying the principal amount to be prepaid, together with interest thereon accrued to the date of prepayment.

D. ACTUAL LOAN AMOUNT DISBURSED

(i) If the loan amount disbursed is less than the amount in Section III. Loan Amount, then the Final Loan Agreement and the Final Promissory Note shall reflect actual loan disbursements. If the Borrower does not pay the Project Interest within two weeks of receiving notice of final loan amount from the NMED, then the accrued Project Interest shall be incorporated into the principal amount in the Final Promissory Note.

(ii) At the Borrower's request, NMED will reallocate unused loan amounts for other eligible projects of the Borrower, and will either amend an existing loan agreement and note ("Loan Documentation") or enter into new Loan Documentation with Borrower reflecting the reallocation of unused proceeds for other eligible purposes. Borrower shall be responsible for determining that funds pledged for repayment in connection with such Loan Documentation is from an appropriate source.

(iii) Within the State and Federal requirements applicable to the Loan Agreement, NMED intends to utilize amounts repaid by Borrower hereunder to provide additional loans to Borrower for eligible purposes, at Borrower's request.

E. SECURITY – PLEDGED FUNDS

The Borrower is giving a security interest by dedicating the Pledged Funds. The Pledged Funds are defined as Net Revenues of the Environmental Services Division owned and operated by the City of Santa Fe, as more specifically defined in the Covenants and Provisions Applicable to Net Solid Waste Collection System Revenue Debt Obligations attached hereto as Attachment 1 ("Attachment 1"), which are hereby incorporated in this Agreement.

Except as stated in Attachment 1, the Pledged Funds have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Pledged Funds on the date of the Ordinance. The loan will be payable and collectible solely from the Pledged Funds.

F. DEFAULT AND LATE CHARGES

Failure by the Borrower to pay the annual payments as set forth in the Final Loan Agreement and Final Promissory Note shall constitute an event of default. Late charges may be assessed at the discretion of NMED. See VI. COVENANTS, Sections H and I for default procedures.

G. DEMAND FEATURE

This Agreement has a demand feature in the event of default and the total principal and interest due shall be paid on demand. See VI. COVENANTS Sections H and I for default procedures.

H. NO DEBT SERVICE RESERVE FUND OR MATCHING REQUIREMENTS.

Borrower shall not be required to establish a debt service reserve fund or to provide matching funds pursuant to this Agreement. In lieu of debt service reserve fund requirements, Borrower shall comply with the Rate Covenant herein. See VI, COVENANTS Section E.

IV. Project Conditions:

A. After the date of this Agreement, but prior to NMED's approval of the Contract Documents, for any phase, the Borrower's attorney shall provide an opinion satisfactory to NMED that the Borrower is an incorporated entity.

B. Upon execution of this Agreement, the Borrower shall follow the procedures listed below unless waived in writing by NMED. Disbursement by NMED may be withheld if any of these procedures are not followed by the Borrower.

1. If these Funds are to be used for engineering and/or other professional services, the Borrower shall submit documentation regarding the hiring process to be used and the (RFP), to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must comply with the New Mexico Procurement Code. NMSA 1978, Sections 13-1-21 et seq. Engineering Services must be chosen based on a qualification-based request for proposal process regardless of the anticipated cost. A minimum of three proposers must be interviewed as part of the selection process. The Borrower is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB email ptab@acecnm.org.)

2. If these Funds are to be used for engineering and/or other professional services, the Borrower shall submit a draft form of any engineering agreement and/or other professional services contract, or a letter certifying that the Borrower's staff will perform the engineering and/or other professional services, to NMED for review and approval prior to executing the agreement/contract or using Borrower's staff. The preferred engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on thewebsite at

https://www.env.nm.gov/construction-programs/cpb-forms-and-documents-2/.

3. If these Funds are to be used for engineering design or for construction, the Borrower shall submit all plans, specifications, and any addenda for this project to NMED for review and approval before the project is advertised for construction bids. Plans, specifications, and addenda shall be prepared by a registered New Mexico Professional Engineer.

4. Following NMED approval of the proposed award, the Borrower shall submit to NMED for review the notice of the award and the minutes of meeting in which award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed. The selected contractor will be required to post a performance and payment bond in accordance with requirements of NMSA 1978, Section 13-4-18.

5. The selected contractor will be required to submit a construction schedule to the Borrower at the pre-construction conference.

6. The Borrower will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. NMED's written decision approving or disapproving the modification shall be rendered promptly to the Borrower. If immediate action is needed, a verbal notification of NMED's decision will be made, followed by written notification.

7. The Borrower shall provide a full-time construction inspector during construction of the project. The Borrower shall submit the inspector's résumé and inspection reports to NMED for review and approval.

8. NMED shall have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans.

9. NMED may require proof of deposit and/or proof of payments to contractors and consultants, including the disbursement of funds other than those provided by the Agreement.

10. The Borrower (or the system owner) shall employ properly certified utility operators and shall comply with all provisions of the New Mexico Utility Operators Certification Act, NMSA 1978, Sections 61- 33-1 et seq.

11. With the exception of easements (See Section V.H), when real property is acquired by the Borrower, either through purchase or donation as a part of this project and within the project period, the Borrower will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Borrower will make available to NMED all documents of title pertaining to the acquired property and all easements or rights- of-way necessary for the completion of work under this agreement.

12. If the Funds are to be used for construction of wastewater collection lines or water distribution lines, the existing population served by the project shall be connected to the collection system or distribution system within a reasonable time after project completion. This will be accomplished by adoption and annual review of an Ordinance/Resolution and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

13. Notwithstanding the other provisions of this Agreement the Borrower shall comply with the Prompt Payment Act, NMSA 1978, Sections 57-28-1 et seq. The Project will not be considered complete until the work as defined in this Agreement has been fully performed, and finally and unconditionally accepted by the Borrower and NMED.

14. If the Funds are to be used for construction, final disbursement will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:

    a) Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals.

    b) A final reimbursement request including the final certified construction pay request prepared by the Borrower's project engineer and approved by the Borrower.

    c) A certificate of substantial completion including punch list items.

    d) A letter certifying project acceptance by the Borrower and the Borrower's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Borrower, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Borrower and contractors will be submitted to NMED for final review and approval.

    e) Certification letter by the Borrower that the Labor Standards Contract Provisions have been met.

    f) Record drawings prepared by the Borrower's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings.

    g) Complete and legally effective releases or waivers (satisfactory to the Borrower) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished thereunder. In lieu thereof and as approved by the Borrower, contractor(s) may furnish receipts or releases in full an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Borrower or its property might in any way be responsible,

    have been paid or otherwise satisfied.

h) A written consent of the surety, if any, to final payment; and

i) Borrower's ledger sheets including all payments made by the Borrower may be requested with the final disbursement request and before the final disbursement request can be processed by NMED.

j) Verification to NMED of FSP and written certification that a FSP is in place.

15. The Borrower must ensure that each procurement contract contain the following term and condition: The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of the contract which may result in the termination of the contract or other legally available remedies.

16. The Borrower shall require the Contractor of the Project to post a performance and payment bond approved by NMED in the amount of the bid.

17. Bid tabulation and supporting documents (Contract Documents) shall be prepared and furnished to NMED within fifteen (15) days of bid opening. The Borrower shall not proceed with construction of the Project until NMED has approved the Contract Documents.

18. Any change order to the Project construction contract which results in a change to the Project's contract amount, scope of work, or schedule must be approved by NMED.

19. Borrower agrees to implement environmental recommendations that will be supplied by NMED prior to final Plan approval.

20. The Borrower must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. The Borrower must certify in writing that this has been done prior to the award of the construction contract. A site certificate addressing the property upon or through which the facility is being constructed and prepared by theBorrower's attorney is required.

21. The Borrower agrees to obtain a single audit annually from an Independent Professional Auditor.

22. The Borrower shall achieve Project Completion by the end of the loan agreement term. Project Completion means the date the operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

23. If the Borrower is unable to complete the project by the loan termination date, the Borrower must notify NMED at least 30 days prior to the loan termination date, otherwise, NMED may terminate this Agreement or may withhold Funds. If NMED terminates this Agreement, the Borrower shall refund any Funds disbursed to the Borrower by NMED within ninety (90) days of termination.

V. General Conditions:

A. This Agreement is made pursuant to and in accordance with the provisions of the Wastewater Facility Construction Loan Act, NMSA 1978, § 74-6A-1 et seq., as amended, the New Mexico Water Quality Control Commission Regulations,
20.7.5 NMAC, and the New Mexico Environment Department Regulations, 20.7.6 –20.7.7 NMAC.

B. Pursuant to the Ordinance of the Borrower, the Borrower is authorized to enter into this Agreement and the Final Loan Agreement and to execute and deliver an Interim Promissory Note and Final Promissory Note. The terms of the Ordinance and Interim Promissory Note are incorporated as part of this Agreement as though fully set forth in this Agreement.

C. For the purposes of this Agreement, NMED's inspection, review and approval of the Project are only for the purposes of determining compliance with applicable State regulations. NMED approval shall not be interpreted as any warranty or guarantee. Approval of the plans and design of the Project means only that plans are complete. NMED will bring to the Borrower's attention any obvious defects in the Project's design, materials, or workmanship, but all such defects and their correction shall be the responsibility of the Borrower and its contractors. Any questions raised by NMED shall be resolved exclusively by the Borrower and its contractors, who shall remain responsible for the completion and success of the Project.

D. The Borrower warrants, represents and agrees that it, and its contractors,

subcontractors, employees, and representatives will comply with all applicable State and Federal laws and regulations, and the requirements set forth in this Agreement or any amendment to the Agreement.

E. If the Borrower seeks additional funding from any other entity for the Project, the Borrower agrees that the Borrower is solely responsible for satisfying any requirements arising as a result of funding from that other entity.

F. The Borrower warrants that the internal financial statements provided to NMED by the Borrower for approval of the loan do not contain false material statements, representations, certifications, or omissions of material fact.

G. The Borrower shall submit all future audited financial reports to the State Auditor as required by the State Auditor's Rules.

H. The proceeds of the loan shall be used for the Project and for no other purpose. Unallowable uses of the proceeds of the loan include but are not limited to paying administrative expenses (including applications for funding), costs of Borrower employees, late fees, interest, or penalties. Those costs shall be paid by the Borrower.

I. The parties agree that allowable costs will be limited to those costs that arenecessary, reasonable, and related to the efficient achievement of the objectives of this Agreement. The Borrower must justify all expenditures for which it requests reimbursement, according to accepted NMED criteria and procedures. NMED may withhold reimbursement of any item or expenditure and may reclaim improperly documented reimbursement until the Borrower provides sufficient justification. NMED may not disburse any loan funds if the Borrower fails to adhere to the schedule described in Section IV. above.

J. For any phase of the Project which requires National Environmental Policy Act (NEPA) review, NMED shall not disburse any funds for that phase until a NEPA review is completed.

K. The Borrower agrees to abide by all required Equal Employment Opportunity laws, both State and Federal.

L. The Borrower agrees that it will take affirmative action to ensure that the Project is constructed in compliance with Federal and State occupational health and safety laws and that inspectors authorized by NMED's Occupational Health and Safety Bureau will be given free access to the Project sites.

M. The Borrower agrees to make all fiscal records related to the Project available to NMED, the United States Environmental Protection Agency, the United States General Accounting Office (GAO), and the State Auditor for inspection and audit.

N. The obligations of the Borrower under the Agreement are the special limited obligations of the Borrower as set forth in the Agreement and the Note. The Agreement and the Note shall not constitute indebtedness or debt within the meaning of any constitutional, charter or statutory provision, or limitation, nor shall the Agreement and Note be considered or held to be a general obligation of the Borrower. The obligations of the Borrower under the Agreement and Note are payable and collectible solely out of the Pledged Funds as defined in the Agreement, and NMED or any other holders of the Agreement or Note may not look to any general or municipal fund for the payment due on the Agreement or Note.

O. The Borrower agrees to operate and maintain the Project so that the Project will function properly over the structural and material design life of the Project.

P. The loan will not be used by the Borrower on any project constructed in fulfillment, in whole or in part, of requirements made of a subdivider by the provisions of the Land Subdivision Act, NMSA 1978, § 47-5-1 to 47-5-8 NMSA 1978.

Q. The Borrower understands and agrees that the Project is subject to Federal and State regulations and acceptance of any disbursement pursuant to the Agreement constitutes an agreement by the Borrower that the amounts have been properly accounted for and expended in accordance with applicable Federal and State regulations.

R. The Borrower agrees to maintain separate Project accounts in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB) including standards relating to the reporting of infrastructure assets. If requested by NMED, the Borrower shall conduct an audit of the financial records pertaining to the Project.

VI. Covenants:

Attachment 1 (Covenants and Provisions Applicable to Net Environmental Services Division Revenue Debt Obligations ("System Covenants")) is hereby incorporated hereinbelow and shall be controlling in the event of inconsistency between the System Covenants and the following covenants, but only to the extent of such inconsistency.

A. (i) Disbursements (payment of loan funds) to the Borrower made pursuant to the Agreement will be available on and after the date of the execution of

the Agreement and Note if the Borrower is compliant with the Conditions and Covenants of the Agreement. Disbursements will be made only for actual costs incurred by the Borrower to plan, design, construct or acquire the Project, or any phase thereof. The Borrower shall request disbursements on forms acceptable to NMED on at least a quarterly basis and such requests shall be prepared by and certified by the Borrower. All disbursements to the Borrower will be made in accordance with applicable Federal and State regulations. Eligible planning, design and associated pre-building costs that are within the scope of the project and were incurred prior to signing the Agreement are payable under the Agreement and shall be submitted for reimbursement immediately upon execution of the Agreement. Interim disbursements will be made as the work progresses. Interim disbursement requests shall be submitted by the Borrower within ninety (90) days after the liability of the Borrower was incurred as evidenced by the date of the invoice for which disbursement is being requested. NMED shall use commercially reasonable efforts to disburse loan proceeds, or to notify Borrower that the disbursement request is incomplete or otherwise unsatisfactory, within 10 business days after receiving a disbursement request from Borrower.

(ii) NMED will compensate Borrower for the actual and reasonable costs of employing personnel (which may be a current employee of Borrower) tasked with assisting Borrower in preparing, documenting and submitting disbursement requests, and working with NMED to resolve issues relating thereto ("Disbursement Request Administration"). Reimbursement of the Borrower by NMED for the Borrower's actual and reasonable costs of employing such personnel is conditioned on the Borrower providing reasonably detailed, contemporaneous time records describing the activities of such personnel in connection with Disbursement Request Administration as part of each disbursement request. [Such costs [will] [will not] be paid from loan proceeds.]

B. The Borrower shall not sell, lease, or transfer any property related to the Project except as permitted by the Ordinance/Resolution, as amended, and supplemented.

C. The Borrower shall not obligate the Pledged Funds for this Agreement except as set forth in the Ordinance/Resolution as adopted at the time of execution of the Agreement.

D. The Borrower hereby irrevocably agrees that the Borrower has fixed and collected, or will fix and collect, adequate rates, fees, and other charges for

the use of the System (as defined in the Ordinance/Resolution) which will be sufficient to satisfy the Agreement and the Note.

E. If the pledged funds shall prove insufficient to produce the Repayments set forth herein and in the Interim and Final Promissory Note, the Borrower agrees to adjust and increase such rates, fees, and charges in the manner authorized by law to provide funds sufficient to produce the repayment of the loan set forth herein and in the Interim and Final Promissory Note.

F. The Borrower shall not provide any free services of the Environmental Services Division System. The Borrower shall, to the full extent permitted by law, collect payment for Environmental Services Division services provided. The Borrower shall notify NMED should delinquent users impact their ability to service this agreement as defined.

G. The Borrower shall maintain property, liability and fidelity insurance coverage on the Project as required by NMED and provide written proof of such insurance coverage to NMED.

H. The following shall constitute an event of default under the Agreement:

1. The failure by the Borrower to pay the annual payment on the repayment of the loan set forth in the Agreement and Interim and Final Promissory Notes when due and payable either at maturity or otherwise or

2. Default by the Borrower in any of its covenants or conditions set forth under the Agreement (other than a default set forth in the previous clause of this section) for 60 days after NMED has given written notice to the Borrower specifying such default and requiring the same to be remedied.

I. Upon occurrence of an event of default:

1. The entire unpaid amount of the Agreement and Interim and Final Promissory Note may be declared by the NMED to be immediately due and payable, and the Borrower shall pay the amounts due under the Agreement and Interim and Final Promissory Note from the Pledged Funds, either immediately or in the manner required by NMED in its declaration.

2. If the event of default is under clause one of Subsection H, NMED is authorized to set Environmental Services Division Services user rates in the area of the Borrower's jurisdiction in order to provide sufficient

money for repayment, on scheduled due dates of the loan and proper operation and maintenance of the Environmental Services Division System. Funds sufficient to provide for repayment, on scheduled due dates of the loan and proper operation and maintenance of the Environmental Services Division System shall be identified through a rate- setting analysis that will ensure enough revenue to cover yearly expenses and emergencies, a reserve fund for non-major capital items and equitable pay for staff. The rate-setting analysis may be reviewed and changed on a yearly basis if necessary.

3. If default by the Borrower is of covenants or conditions required under the Agreement, the Borrower may be required to refund the amount of the loan disbursed to the Borrower from NMED.

4. NMED shall have no further obligation to make disbursements to the Borrower under the Agreement and may pursue any other appropriate remedies.

J. NMED retains the right to seek enforcement of the terms of the Agreement. If the parties cannot reach agreement regarding disputes as to the terms and conditions of this Agreement, such disputes are to be resolved in the district court of Santa Fe County. The parties agree that the district court for

Santa Fe County shall have exclusive jurisdiction over the parties and the subject matter of this Agreement and waive the right to challenge such jurisdiction.

K. This Agreement, the Ordinance/Resolution and the Note incorporate all the agreements, covenants and understandings between the parties concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement, the Ordinance/Resolution, and the Note. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement, the Ordinance/Resolution, and the Note.

L. This Agreement shall be binding upon and inure to the benefit of the Borrower, NMED and their respective successors. The rights and obligations under the Agreement and Interim and Final Promissory Note may not be assigned by the Borrower.

M. No change shall be made to the Agreement or the Interim and Final Promissory Note except in writing singed by NMED and the Borrower.

CWSRF FEDERAL REQUIREMENTS: APPLIES TO ALL PROJECTS

New Mexico CWSRF Loan Agreement Provision LA 1: Anti-Discrimination Laws (Super Cross- Cutters)

All recipients of CWSRF financial assistance are required to comply with the following provisions:

Civil Rights Laws (i.e., Super Crosscutters)

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1251
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794
- The Age Discrimination Act of 1975, 42 U.S.C. § 6102

These four laws prohibit discrimination in the provision of services or benefits, on the basis of race, color, national origin, sex, disability, or age, in programs or activities receiving federal financial assistance. All recipients of CWSRF financial assistance must agree, and required their contractors and subcontractors to agree, not to discriminate on the basis of race, color, national origin, sex, disability or age.

New Mexico CWSRF Loan Agreement Provision LA2: Generally Accepted Governmental Accounting

All recipients of CWSRF financial assistance (Assistance Recipients) are required to comply with the following provisions:

Section 602(b)(9) of the Federal Water Pollution Control Act (FWPCA) states:

(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets

The most recent applicable standard is GASB Statement No. 34 (GASB 34), issued in June 1999, which details governmental reporting requirements including standards for reporting of infrastructure assets. Further details on the requirements, as well as the full text of GASB 34, can be obtained through the GASB. CWSRF assistance recipients that follow GAAP standards other than GASB 34 are still required to maintain project accounts according to GAAP and apply GAAP standards for reporting on infrastructure assets.

Pursuant to Section 602(b)(9) of the FWPCA, all CWSRF Assistance Recipients must agree to maintain project accounts according to Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), using standards relating to the reporting of infrastructure assets.

New Mexico CWSRF Loan Agreement Provision LA13: Useful Life Requirement

All recipients of CWSRF financial assistance are required to comply with the following provisions:

Section 603(d)(1)(A) of the Clean Water Act (as amended) restricts the terms of CWSRF loans to the lesser of 30 years or the useful life of the project. All applicants for CWSRF financial assistance agree to provide an engineer's estimate of the useful life of project components to be funded by the CWSRF.

New Mexico CWSRF Loan Agreement Provision LA14 Office of Inspector General Posting

The US Environmental Protection Agency requires that contracts exceeding $1,000,0000 prominently display the Office of the Inspector General Hotline poster within contractor work areas and facilities where work is performed.

Posters may be obtained at: https://www.epa.gov/office-inspector-general/poster-report-fraud-waste-and-abuse-epa-oig-hotlineThe parties have executed this Agreement on the dates set forth by their respective names.

LA 18 Cost and Effectiveness—Government Requirement

Under the Federal Water Pollution Control Act (FWPCA) section 602(b)(13), the CWSRF program requires that all assistance recipients certify that they have conducted the studies and evaluations described in 602(b) (13 (A) and (B) herein referred to collectively as a cost and effectiveness analysis. The statute requires that a cost and effectiveness analysis involve, at a minimum:

- the study and evaluation of the cost and effectiveness of the processes, materials, techniques, and technologies for conducting the proposed project or activity for which assistance is sought under this title; and
- the selection, to the maximum extent practicable, of a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, considering—
    - the cost of constructing the project or activity.
    - the cost of operating and maintaining the project or activity over the life of the project or activity; and
    - the cost of replacing the project or activity.

CWSRF FEDERAL REQUIREMENTS: APPLIES ONLY TO TREATMENT WORKS PROJECTS

(UV Disinfection and Sewer Line Repair):

AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

The Federal Water Pollution Control Act (P.L. 92-500) Section 608 requires Clean Water State Revolving Loan Fund (CWSRF) and Drinking Water State Revolving Loan Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works.

The Act states:

> SEC. 608. REQUIREMENTS.
> *(a)* IN GENERAL.—Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.
> *(b)* DEFINITION OF IRON AND STEEL PRODUCTS.—In this section, the term `iron and steel products' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials.
> *(c)* APPLICATION.—Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—
>
> (1) applying subsection (a) would be inconsistent with the public interest.
> (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
> (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.
>
> *(d)* WAIVER.—If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Environmental Protection Agency.
> *(e)* INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.
> *(f)* MANAGEMENT AND OVERSIGHT.—The Administrator may retain up to 0.25 percent of the funds appropriated for this title for management and oversight of the requirements of this section.
> *(g)* EFFECTIVE DATE.—This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that

agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of enactment of the Water Resources Reform and Development Act of 2014.

AMERICAN IRON AND STEEL (AIS) GUIDANCE

The following guidance excerpt has been provided from EPA:

(Complete guidance may be downloaded from: https://www.epa.gov/cwsrf/state-revolving-fund- american-iron-and-steel-ais- requirement)

Covered Iron and Steel Products

11) What is an iron or steel product?

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:
Lined or unlined pipes or fittings;
Manhole Covers.
Municipal Castings (defined in more detail below),
Hydrants.
Tanks;
Flanges.
Pipe clamps and restraints; Valves.
Structural steel (defined in more detail below);
Reinforced precast concrete; and
Construction materials (defined in more detail below).

12) What does the term 'primarily iron or steel' mean?

'Primarily iron or steel' places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

13) Can you provide an example of how to perform a cost determination?

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem coupling, valve, seals, etc.).
However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete, which is addressed in a later question.

14) If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product

be produced in the US?

The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

15) What is the definition of steel?

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

16) What does 'produced in the United States' mean?

Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

17) Are the raw materials used in the production of iron or steel required to come from US sources?

No. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

18) If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?

No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example, trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

19) What is the definition of 'municipal castings?

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches;
Ballast Screen.
Benches (Iron or Steel);
Bollards.
Cast Bases.
Cast Iron Hinged Hatches, Square and
Rectangular; Cast Iron Riser Rings.
Catch Basin Inlet;
Cleanout/Monument Boxes;
Construction Covers and Frames;
Curb and Corner Guards.
Curb Openings.
Detectable Warning Plates;
Downspout Shoes (Boot,
Inlet).
Drainage Grates, Frames and Curb Inlets;
Inlets.
Junction
Boxes.
Lampposts.
Manhole Covers, Rings and Frames, Risers,
Meter Boxes.
Service Boxes.
Steel Hinged Hatches, Square and Rectangular;
Steel Riser Rings.
Trash
receptacles;
Tree Grates.
Tree Guards;
Trench Grates;
and
Valve Boxes, Covers and Risers.

20) What is 'structural steel'?

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

21) What is a 'construction material' for purposes of the AIS requirement?

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical

components, equipment and systems. Some of these products may overlap with what is also considered "structural steel". This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

22) What is not considered a 'construction material' for purposes of the AIS requirement?

Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system. The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters,
heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

23) If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?

No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

24) What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?

While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the US.

<u>Certification and Compliance</u>

NMED Form #C4 "American Iron and Steel (AIS) Certification" must be executed and included in the bid package. Failure to complete the certification will result the bid being returned. The contractor will

supply to the loan recipient manufacturers' certifications for each iron and steel item documenting/asserting that all manufacturing processes occurred in the United States. Such certifications will be submitted with shop drawings.

Waiver Process

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework is described in the guidance document found at: https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-waiver-process

Approved and denied waivers may be reviewed at: https://www.epa.gov/cwsrf/american-iron-and- steel-requirement-approved-project-waivers and https://www.epa.gov/cwsrf/american-iron-and- steel-requirement-withdrawn-or-denied-waivers

De Minimis Materials Waiver

The EPA has granted a nationwide waiver of the AIS requirements of the Consolidated Appropriations Act under the authority of Section 436(b)(1) (public interest waiver) for de minimis incidental components of eligible infrastructure projects. For many of these incidental components, the country of manufacture and the availability of alternatives is not always readily or reasonably identifiable prior to procurement in the normal course of business; for other incidental components, the country of manufacture may be known but the miscellaneous character in conjunction with the low cost, individually and (in total) as typically procured in bulk, mark them as properly incidental. Examples of incidental components could include small washers, screws, fasteners (i.e., nuts and bolts), miscellaneous wire, corner bead, ancillary tube, etc. Examples of items that are clearly not incidental include significant process fittings (i.e., tees, elbows, flanges, and brackets), distribution system fittings and valves, force main valves, pipes for sewer collection and/or water distribution, treatment and storage tanks, large structural support structures, etc.

Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the total materials used in and incorporated into a project; the cost of an individual item may not exceed 1 percent of the total cost of the total materials used in and incorporated into a project. Contractors who wish to use this waiver should determine the costs of all items installed or supplied for the project. The contractor must retain relevant documentation (i.e., invoices) for each of these items in their project files and must summarize the

items in monthly draw requests to the owner: the total cost of all materials, the total cost of "incidental" materials, and the calculations by which they determined the percentage of incidental products installed or supplied for the project. None of the products specifically listed as "Covered Iron and Steel Products" are incidental, nor are the products identified in detail in the technical specifications.

New Mexico CWSRF Loan Agreement Provision LA9 Environmental Review Requirements

The Federal Water Pollution Control Act section 511(c)(1) applies the National Environmental Policy Act (NEPA) to assistance for the construction of treatment works. All CWSRF-funded projects involving the construction of treatment works, regardless of the source of the funding, must undergo an environmental review following the procedures in NMED's State Environmental Review Process.

Assistance recipients ("sub-recipients") for CWSRF-funded treatment works projects are required to comply with Section 513 of the Federal Water Pollution Control Act (P.L. 92-500, as amended by the Water Resources Reform and Development Act of 2014) requiring all laborers and mechanics employed by contractors working on treatment works to be paid prevailing wages as determined by the Secretary of Labor. It is considered a Davis-Bacon related Act.

DAVIS-BACON REQUIREMENT (GOVERNMENTAL ENTITIES)

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the Water Resources Reform and Development Act of 2014 (WRRDA), DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with NMED before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor https://beta.sam.gov/ weekly to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

(c) Sub-recipients shall review all subcontracts subject to DB entered into by prime contractors to verify

that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub-recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub-recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF - financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or -FY 2014 Water Resource Reform and Development Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub-recipients may obtain wage determinations from the U.S. Department of Labor's web site,

www.dol.gov.

(ii)(A) The sub-recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub-recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub-recipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub-recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably

anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(2) Withholding. The sub-recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub-recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub-recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for

this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the sub-recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub-recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work

they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until

an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub-recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii)The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The sub-recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub-recipient**,** upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub-recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub-recipient shall insert in any such contract a clause providing hat the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub-recipient shall periodically interview a sufficient number of employees entitled to DB

prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub-recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub-recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub-recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub-recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The sub-recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub-recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub-recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub-recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub-recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub-recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub-recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

DAVIS-BACON REQUIREMENT (NON-GOVERNMENTAL ENTITIES)

Under these terms and conditions, the sub-recipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2014 Water Resource Reform and Development Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with NMED before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients must obtain proposed wage determinations for specific localities at https://beta.sam.gov/. After the Sub-recipient obtains its proposed wage determination, it must submit the wage determination to the **New Mexico Environment Department Construction Programs Bureau** ((505)-469-3459) for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official.)

(b) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor https://beta.sam.gov/. on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

(d) Sub-recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the

contract or ordering instrument by change order. The sub-recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub-recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF - or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2014

(b) Water Resource Reform and Development Act -, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub-recipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The sub-recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub-recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub-recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub-recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(2) Withholding. The sub-recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any

other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub-recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub-recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the sub-recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the

Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub-recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer

and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the

Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii)Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub-recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. **4. Contract Provision for Contracts in Excess of $100,000.**

(a) Contract Work Hours and Safety Standards Act. The sub-recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub-recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub-recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years

from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub-recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub-recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub-recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub-recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub-recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub-recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c). The sub-recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub- recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the sub-recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub-recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub-recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The sub-recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub-recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

New Mexico CWSRF Loan Provision LA15 Fiscal Sustainability Plan

	Fiscal Sustainability Plan Requirement	LA15

The 2014 Clean Water Act amendments require recipients of CWRF loans for projects involving a publicly owned treatment works to certify that they have developed and implemented a Fiscal Sustainability Plan (FSP) or another plan that meets minimum requirements, or that they will prepare an FSP. The minimum required elements for an FSP are listed in Section 603(d)(1)(E) of the Clean Water Act. Loan recipients shall develop and implement a FSP that includes the following:

- An inventory of critical assets that are part of the system. Critical assets are those that are necessary for sustained system performance.
- An evaluation of the condition and performance of critical assets.
- A plan for maintaining, repairing and replacing critical assets and for funding those activities.
- An evaluation and implementation plan for water and energy conservation.

The FSP requirement applies to all publicly owned treatment works construction or design/ construction projects funded in-part or in-full of State Revolving Fund (SRF) loans. The FSP must cover the entire project for which SRF funding is provided.

At the completion of the project, the loan recipient can:

Certify that a Fiscal Sustainability Plan (FSP) has been developed and implemented that meets the minimum required elements listed above. The FSP certification statement must be submitted before a final loan agreement is executed. The FSP will be available for NMED review during a site visit or inspection.

Agree to develop and implement a Fiscal Sustainability Plan (FSP) that will meet the minimum required elements listed above. The certification statement must be submitted before a final loan agreement is executed. The FSP must be completed prior to final disbursement. The FSP will be available for NMED review during a site visit or inspection.

By executing this Agreement, the undersigned represents authorization to act on behalf of the Recipient.

BY:

_____

Signature of duly authorized Recipient Official City of Santa Fe

_____

Print Name

_____

Title

_____

Date

Issued and administered by:

New Mexico Environment Department
Wastewater Facility Construction Loan Program
Clean Water State Revolving Loan Fund

BY: _____

Constructions Programs Bureau, Bureau Chief
Signed pursuant to February 19, 2024, Secretary of Environment Delegation Order

ATTACHMENT 1

COVENANTS AND PROVISIONS APPLICABLE
TO NET ENVIRONMENTAL SERVICES DIVISION OBLIGATIONS ('SYSTEM OBLIGATIONS")

Bracketed section references refer to the corresponding sections in Ordinance No. 2017-5, adopted by the Governing Body of the City of Santa Fe on March 29, 2017 ("Ordinance No. 2017-5").

Section 1. Definitions.

"Agreement" means this Clean Water State Revolving Loan Fund Interim Loan Agreement made by NMED (as defined below) to the City of Santa Fe, in the principal amount of $20,000,000, as a portion of the Funding Package consisting of $151,000,0000 total Loan at 0.01%, secured by a subordinate lien on the Net Revenues of the City of Santa Fe Environmental Services Division , and shall include the Final Loan Agreement at the time that the Final Debt Service Schedule has been provided by NMED.

"Agreement Debt Service Account" means the account of the Debt Service Fund established and maintained by the City in Section 2 hereof for the deposit of Pledged Revenues in amounts sufficient to make timely payments of the debt service requirements of this Agreement.

"Aggregate Annual Debt Service Requirement" means the total principal, interest, and premium payments, if any, due and payable pursuant to the 2017 NMFA Loan Agreement and on all Superior Obligations and Parity Subordinate Obligations secured by a pledge of the Pledged Revenues for any one Fiscal Year.

"Authorized Officer" means the City's Mayor, Manager, Finance Director and Treasurer, or other officer or employee of the City when designated by a certificate signed by the Mayor of the City from time to time.

"Governing Body" or "Council" means the City Council of the City, its governing body.

"Gross Revenues" means all income and revenues directly or indirectly derived by the City from the operation and use of the System, or any part of the System, and includes, without limitation, all revenues received by the City, or any municipal corporation or agency succeeding to the rights of the City, from the System.

"Historic Test Period" means any period of 12 consecutive months out of the 24 calendar months next preceding the delivery of additional Parity Bonds.

"Income Fund" or "Environmental Services Division Enterprise Fund" means the "City of Santa Fe Environmental Services Division Gross Income Fund" which is authorized to be continued in Section 2 hereof.

"Independent Accountant" means (i) the State Auditor and any accountant working under the supervision and control of the State Auditor, and (ii) any certified public accountant, registered accountant or firm of accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the City who (a) is, in fact, independent and not under the domination of the City, (b) does not have any substantial interest, direct or indirect, with the City, and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City.

"NMSA" means New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

"Net Revenues" means Gross Revenues after deducting Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) legal and overhead expenses of the various City departments directly related and reasonably allocable to the administration of the System;

(b) insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay Debt Service Requirements on System Bonds) for Credit Facilities;

(d) Expenses other than Expenses paid from the proceeds of System Bonds;

(e) the costs of audits of the books and accounts of the System;

(f) amounts required to be deposited in the Rebate Fund;

(g) salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the City's general fund, liabilities incurred by the City as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Obligations" means bonds, notes or any other instrument which evidences a borrowing or other obligation of the City, including Qualified Exchange Agreements, secured by Net Revenues, issued or incurred for any purpose permitted by the Act or the Exchange Act, as amended from time to time.

"Operation and Maintenance Fund" means the "City of Santa Fe Environmental Services Division Operation and Maintenance Fund" authorized hereby.

"Outstanding Obligations" or "Outstanding System Obligations" means, collectively, Outstanding Superior Obligations and Outstanding Subordinate Obligations.

"Outstanding Superior Bonds" means the 2017 NMFA Loan Agreement and such other System Obligations as may be issued from time to time with a lien on Net Revenues on parity with the lien thereon of the 2017 NMFA Loan Agreement.

"Outstanding Parity Subordinate Obligations" means System Obligations with a lien on Net Revenues subordinate to the lien thereon of Superior Obligations, including, without limitation, this Agreement.

"Pledged Revenues" means Net Revenues of the System.

"Rate Stabilization Fund" means the Rate Stabilization Fund for System Bonds established in Section 2 herein.

"Rebate Fund" means a Rebate Fund that may be established by the City in connection with for System Bonds the interest on which is intended to be excludable from gross income for federal tax purposes.

"Replacement Fund" means the Replacement Fund established in Section 2 hereof.

"Subordinated Bonds" means all bonds and other obligations of the City hereafter issued with a lien on the Net Revenues subordinate to the lien of Superior Bonds on the Net Revenues and on parity wit the lien of Subordinate Bonds.

"System" means the municipally owned public utility designated as the City's Environmental Service Division, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, condemnation, construction or otherwise, including all expansions, extensions, enlargements and improvements of or to the Environmental Services Division, and used in connection therewith or relating thereto, and any other related activity or enterprise of the City designated by the Council as part of the Environmental Services Division, whether situated within or without the limits of the City.

"System Bonds" or "System Obligations" means the 2017 NMFA Loan Agreement, additional Parity Bonds, Subordinated Bonds, and other similar obligations payable solely or primarily from Net Revenues which may from time to time be issued by the City.

"2017 NMFA Loan Agreement" means Loan Agreement 3664-PP by and between the New Mexico Finance Authority, as lender, and the City, as borrower, dated May 5, 2017 in an original principal amount of $1,300,582."

Section 2. Establishment or Continuation of Funds and Accounts. The City hereby establishes or continues the following funds:

(a) The "City of Santa Fe Environmental Services Division Acquisition Fund" is hereby established and shall be maintained by the City for deposit or crediting of proceeds of System Obligations and applied to costs of improvements to the System.

(b) The "City of Santa Fe Environmental Services Division Debt Service Fund" is hereby established and shall be maintained by the City for the deposit of Pledged Revenues in amounts sufficient to make timely payments of the Debt Service Requirements of this Agreement Outstanding Parity Obligations, and Outstanding Subordinate Obligations, if any.

(c) The "City of Santa Fe Environmental Services Division Income Fund" is hereby continued and shall be maintained by the City for deposit of the Gross Revenues of the System.

(d) The "City of Santa Fe Environmental Services Division Operation and Maintenance Fund" is hereby established and shall be maintained by the City for the payment of Operation and Maintenance Expenses.

(e) The "City of Santa Fe Environmental Services Division Replacement Fund" is hereby established and shall be maintained by the City for the purposes set forth in Section 5 hereof.

(f) The "City of Santa Fe Environmental Services Division Rate Stabilization Fund" is hereby established and shall be maintained by the City and used as provided in Section 6 hereof.

Section 3. Use of Gross Revenues. Use of Gross Revenues. As long as any System Bonds are Outstanding, all Gross Revenues shall be deposited in the Income

Fund and transferred from that Fund to the following funds and accounts or for payment of the following amounts in the order listed:

(a) Operation and Maintenance Expenses. A sufficient amount of Gross Revenues shall be set aside each month into the Operation and Maintenance Fund to be used to pay the current Operation and Maintenance Expenses as they become due.

(b) Debt Service Requirements of Superior Obligations. Net Revenues shall be transferred to the Debt Service Account established for each series of Outstanding Superior Bonds in approximately equal amounts each month to provide an amount sufficient to pay Debt Service Requirements on such series of Superior Bonds as they become due.

(c) Subsequent to the payments required by the outstanding Superior Obligations, any balance remaining in the Income Fund, after making the payments hereinabove provided, shall be used by the City for the payment of interest on and the principal of this Agreement and all other Outstanding Parity Subordinate Obligations or other obligations, if any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of Superior Obligations hereafter authorized, issued and payable from the Net Revenues, as the same become due. So long as this Agreement remains outstanding, either as to principal or interest or both, the following payments shall be made monthly from Net Revenues on a parity with the payments required by the outstanding Parity Subordinate Obligations:

(i) Agreement Debt Service Account Payments.

The following amounts shall be withdrawn from the Income Fund (and on parity with other outstanding Parity Subordinate Obligations), and shall be concurrently credited to the Agreement Debt Service Fund (unless the City determines that such amounts shall be withdrawn from such funds in some other order):

(aa) Monthly, commencing on the first day of the month immediately succeeding the delivery of the final debt service schedule for the Agreement, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Agreement, and monthly thereafter, commencing on each Interest Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Agreement.

(bb) Monthly, commencing on the first day of the month immediately succeeding the delivery of the final debt service schedule for the Agreement, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the Agreement, and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Agreement.

(ii) Concurrently with Agreement Debt Service Account Payments described in subparagraph (1) above, Net Revenues shall be credited to the Debt Service Funds for Outstanding Parity Subordinate Obligations (unless the City determines that such amounts shall be withdrawn from such funds in some other order):

(aa) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Parity Subordinate Obligations, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Parity Subordinated Obligations, and monthly thereafter, commencing on each Interest Payment

Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Parity Subordinate Obligations.

(bb) Monthly, commencing on the first day of the month immediately succeeding the delivery of the Parity Subordinate Obligations, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the Parity Subordinate Obligations, and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Parity Subordinate Obligations.

If, prior to any interest payment date or principal payment date, there has been accumulated in the Debt Service Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs (b), (c)(i) and (c)(ii) of this Section (whichever is applicable), may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

(d) Reserve Account. Net Revenues shall be transferred to the Reserve Account for each series of Superior Bonds with a Reserve Requirement each month to the extent that deposits are required to be made as a result of any draws on a Reserve Account Insurance Policy or deficiency in the Reserve Requirement for a series of Superior Bonds.

(e) Subordinated Bonds. Subsequent to the payments required by Outstanding Superior Bonds, Net Revenues shall be transferred to such funds and accounts as may be established by Supplemental Ordinance with respect to one or more series of Subordinated Bonds, including this Agreement, and used to pay Debt Service Requirements on Subordinated Bonds and to fund any Reserve Requirement for Subordinated Bonds.

(f) Replacement Fund. While any Parity System Obligations are Outstanding, money on deposit in the Replacement Fund shall be used only (i) for replacement costs and capital improvements to the System, (ii) for extraordinary charges relating to the financing or refinancing of the System, and (iii) to purchase or otherwise defease, or provide for defeasance of, Outstanding Obligations payable from Net Revenues.

(g) Rate Stabilization Fund. At the option of the City, Net Revenues may be transferred to the Rate Stabilization Fund to be used for the purposes for which Gross Revenues may be used.

(h) Surplus Net Revenues. Net Revenues shall be retained in the Income Fund or used for any other lawful System purpose including, but not limited to, redeeming or purchasing System Bonds or paying costs and expenses of the City relating to the administration of System Bonds but shall not be transferred to the general fund of the City except for Operation and Maintenance Expenses owed by the System to the City and except for taxes, payments in lieu of taxes, franchise fees, surcharges, assessments and other municipal or governmental charges of the City lawfully levied or assessed upon the System.

(i) Accumulation of Revenues. Gross Revenues need not be retained for any use or in any fund or account described in this Section 18.01 in excess of the Gross Revenues required for any current use or deposit. For the purposes of this subparagraph, the term current shall mean the month during which the Net Revenues are being distributed and the immediately following period until the next payment date for Debt Service Requirements on System Bonds.

Section 4. Termination Upon Deposits to Maturity. No payments need be made into the Debt Service Account or Reserve Account for a series of System Bonds if the sum of the amounts in that Debt Service Account and Reserve Account (without regard for the coverage available under any Reserve Account Insurance Policy) is not less than the Debt Service Requirements due and to become due on and before the final maturity date of that series of System Bonds, both accrued and not accrued, and all proceeds paid under any Reserve Account Insurance Policy and Bond Insurance Policy for that series of System Bonds have been reimbursed and all amounts owed to the providers of such policies have been paid in full. Unless otherwise provided in the Supplemental Ordinance applicable to a series of System Bonds, the money retained in those two accounts shall be used only to pay the Debt Service Requirements on that series of System Bonds when due, except that any money on deposit in any such Debt Service Account which is not necessary to pay such Debt Service Requirements shall be used as surplus Net Revenues and any money on deposit in any such Reserve Account which is not necessary to pay such Debt Service Requirements (other than proceeds of Outstanding System Bonds) shall be deposited in the Replacement Fund.

Section 5. Replacement Fund. In addition to Net Revenues, the City shall deposit in the Replacement Fund, all money released from a Reserve Account for a series of System Bonds in excess of the Reserve Requirement for that series pursuant to the ordinance authorizing such series, except for any such excess which is designated for another System purpose by resolution or ordinance of the Council or which is proceeds of Outstanding System Bonds, together with such other moneys from other sources as may be designated by the Council.

While any System Bonds are outstanding, money on deposit in the Replacement Fund shall be used only (i) for replacement costs and capital improvements to the System, (ii) for

extraordinary charges relating to the financing or refinancing of the System, and (iii) to purchase or otherwise defease, or provide for the defeasance of, Outstanding System Bonds.

Section 6. Rate Stabilization Fund. Money on deposit in the Rate Stabilization Fund may be withdrawn at any time and used for any purpose for which Gross Revenues may be used. If deposits to the Rate Stabilization Fund are made by the City from sources of legally available moneys other than Gross Revenues, then such deposits shall be excluded from computations required pursuant to Section 9 hereof.

Section 7. Pro Rata Deposits. If the amount of Net Revenues available for deposit in the Debt Service Fund is not sufficient to pay the entire amount required to be deposited in the Debt Service Accounts and/or Reserve Accounts, the Net Revenues available shall be deposited first in the Debt Service Accounts and then in the Reserve Accounts, in each case, pro rata based upon the amount required to be deposited in each Account to the total Net Revenues available for deposit.

Reimbursements owed to a Bond Insurer, Reserve Account Insurer or provider of another Credit Facility for amounts used to pay Debt Service Requirements on a series of System Bonds shall be paid on the same pro rata basis and with the same priority as are amounts to be deposited in the Debt Service Account or Reserve Account, as applicable, with respect to the applicable series of Parity Bonds (or comparable accounts with respect to a series of Subordinated Bonds).

Section 8. Additional Parity Subordinate Obligations.

No provision of this Agreement shall be construed in such a manner as to prevent the issuance by the City of additional Parity Subordinate Obligations payable from the Pledged Revenues, nor to prevent the issuance of bonds or other obligations refunding all or a part of this

Agreement; provided, however, that before any such additional Parity Subordinate Obligations are actually issued (excluding refunding bonds or refunding obligations which refund Parity Subordinate Obligations but including parity refunding bonds and obligations which refund subordinate obligations as provided in Section 9 hereof), it must be determined that:

(a) The City is then current in all of the accumulations required to be made into the Agreement Debt Service Account, the debt service account established in connection with the 2017 NMFA Loan, and the debt service accounts established in connection with any other Outstanding Superior Obligations and Parity Subordinate Obligations.

(b) No default shall exist in connection with any of the covenants or requirements of the Ordinance or this Agreement.

(c) The Pledged Revenues received by or credited to the City for the Fiscal Year or for any twelve (12) consecutive months out of the twenty-four (24) months preceding the date of the issuance of such additional Parity Obligations (the "Historic Test Period") shall have been sufficient to pay an amount representing one hundred twenty percent (120%) of the combined maximum Aggregate Annual Debt Service Requirements coming due in any subsequent Fiscal Year on the then Outstanding Parity Subordinate Obligations and the Parity Subordinate Obligations proposed to be issued (excluding the accumulation of any reserves therefor).

(d) A written certification or opinion by the City's Finance Director or chief financial officer or by an Independent Accountant that the Pledged Revenues for the Historic Test Period are sufficient to pay said amounts, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver the Parity Subordinate Obligations proposed to be issued.

(e) No provision of this Agreement shall be construed in such a manner as to prevent the issuance by the City of additional bonds or other obligations payable from the Pledged

Revenues constituting a lien upon such Pledged Revenues (1) on parity with the lien thereon of Outstanding Superior Obligations, or (2) subordinate and junior to the lien of this Agreement nor to prevent the issuance of bonds or other obligations refunding all or part of this Agreement as permitted by Section 5.6 hereof.

Section 10. Refunding Obligations. The provisions of Section 9 hereof are subject to the following exceptions:

(a) If at any time after the Closing Date, while this Agreement, or any part thereof, is outstanding, the City shall find it desirable to refund any outstanding bonds or other outstanding obligations payable from the Pledged Revenues, this Agreement, such bonds or other obligations, or any part thereof, may be refunded (but the holders of this Agreement or bonds to be refunded may not be compelled to surrender this Agreement or their bonds, unless this Agreement, the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed, except as provided in subparagraph (e) of Section 9 hereof and in subparagraphs (b) and (c) of this Section.

(b) No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on parity with this Agreement unless:

(i) The outstanding obligations so refunded are Parity Obligations and the refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 9 hereof.

(c) The refunding bonds or other obligations so issued shall enjoy complete equality of lien on the Pledged Revenues with the portion of this Agreement or any bonds or other obligations of the same issue which is not refunded, if any; and the holder or holders of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of this Agreement or the bonds or other obligations of the same issue refunded thereby. If only a part of this Agreement or the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues is refunded, then such obligations may not be refunded without the consent of the holder or holders of the unrefunded portion of such obligations, unless:

(i) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest obligations evidenced by such refunded obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations; or

(ii) The refunding bonds or other refunding obligations are issued in compliance with Section 9 hereof; or

(iii) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

(d) Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the City may provide by ordinance or resolution, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such outstanding obligations of any one or more issues (including, but not necessarily limited to, this Agreement).

Section 11. Superior Obligations Prohibited. As long as Parity Superior Bonds are outstanding, the City shall not issue additional System Bonds having a lien on the Net Revenues prior and superior to the lien of Parity Superior Bonds on Net Revenues.

Section 12. Protective Covenants. The City hereby covenants and agrees with each and every registered owner of Obligations that: Rate Covenant.

(a) Use Charges. The City has established and will continue to charge reasonable rates for services rendered by the City for use of the System taking into account the cost and value of the System, Operation and Maintenance Expenses, proper allowances for depreciation, and the amounts necessary to make debt services payments from Net Revenues of the System. There shall be charged against users, rates and amounts which shall be increased from time to time, if necessary, and which shall produce Gross Revenues sufficient to pay the annual Operation and Maintenance Expenses and one hundred thirty percent (130%) of the Aggregate Annual Debt Service Requirement payable during the then current Fiscal Year.

(b) Efficient Operation. The City will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments to the Wastewater System as may be necessary or advisable for its economical and efficient operation at all times and to supply reasonable public and private demands for System services within the Service Area.

(c) Records. So long as there are Outstanding System Obligations, proper books of record and account will be kept by the City, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System. Such books shall include, but not necessarily be limited to, monthly records showing: (i) the number of customers for the Environmental Services Division ; (ii) the revenues separately received from charges by

classes of customers, including but not necessarily limited to classification by Environmental Services Division ; and (iii) a detailed statement of the expenses of the System.

(d) Right to Inspect. The Finance Authority and the Trustee shall have the right to inspect at all reasonable times all records, accounts and data relating to the System and to inspect the System and all properties comprising the System.

(e) Audits. The City agrees that, except where the State Auditor of the State performs the audit or where the due date for the audit has been postponed as may otherwise be required by the State Auditor or any other State office or agency with appropriate authority, the City will, within one hundred eighty (180) days following the close of each Fiscal Year, cause an audit of the books and accounts of the System to be made by an Independent Accountant. Each audit of the System shall include those matters determined to be proper by the Independent Accountant. Each audit will be available for inspection by the Finance Authority. The City will provide the holders of Outstanding Obligations with a copy of each audit promptly upon request. All expenses incurred in the making of the audits and reports required by this Section shall be regarded and paid as an Operation and Maintenance Expense.

(f) Billing Procedure. Bills for solid waste collection services furnished by or through the System, shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance of the City. The rates and charges due shall be collected in a lawful manner. Solid waste services may be billed jointly with other utilities, provided that each such joint bill shall show separately the solid waste charges.

(g) Charges and Liens Upon System. The City will pay when due from Gross Revenues or other legally available funds all taxes and assessments or other municipal or

governmental charges, lawfully levied or assessed upon the System and will observe and comply with all valid requirements of any municipal or governmental authority relating to the System. The City will not create or permit any lien or charge upon the System or the Gross Revenues except as provided in this Agreement, or it will make adequate provisions to satisfy and discharge within sixty (60) days after the same accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the System or the Gross Revenues. However, the City shall not be required to pay or cause to be discharged, or make provision for any tax assessment, lien or charge before the time when payment becomes due or so long as the validity thereof is contested in good faith by appropriate legal proceedings, except as otherwise provided in the ordinances or agreements of the City authorizing Outstanding System Obligations other than this Agreement.

(f) Insurance. The City will procure and maintain or cause to be procured and maintained commercial insurance or provide Qualified Self Insurance with respect to the facilities constituting the System and public liability insurance in the form of commercial insurance or Qualified Self Insurance in such amounts and against such risks as are, in the judgment of the Governing Body, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self insured programs provided by municipalities which operate Environmental Services Division s. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a fund, company or association in which the City may have a material interest and of which the City may have control, either singly or with others. Each plan of Qualified Self Insurance shall be established in accordance with law, shall provide that reserves be established or insurance acquired in amounts adequate to provide coverage which the City determines to be reasonable to protect against risks assumed

under the Qualified Self Insurance plan, including any potential retained liability in the event of the termination of such plan of Qualified Self Insurance. In the event of property loss or damage to the System, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged and thereafter, any remainder may be used to redeem Outstanding Obligations or be treated as Gross Revenues.

(g) Alienating System. The Ctu will not sell, lease, mortgage, pledge, or otherwise encumber, or in any manner dispose of, or otherwise alienate, the System, or any part thereof, including any and all extensions and additions that may be made thereto, until all Outstanding System Obligations shall have been paid in full, except that the City may sell any portion of said property which shall have been replaced by other property of at least equal value, or which shall cease to be necessary for the efficient operation of the System, but in no manner nor to such extent as might prejudice the security for the payment of Outstanding System Obligations, provided, however, that in the event of any sale as aforesaid, the proceeds of such sale shall be distributed as Net Revenues of the System as provided herein.

(h) Competent Management. The City shall employ or contract for experienced and competent personnel to manage the System.

(i) Performing Duties. The City will faithfully and punctually perform all duties with respect to the System required by the Constitution and the laws of the State and the ordinances and resolutions of the City, relating to the System, this Agreement, and Outstanding System Obligations, including, but not limited to, making and collecting reasonable and sufficient rates and charges for services rendered or furnished by the System as hereinabove provided.

(j) Other Liens. Other than as disclosed to holders of Outstanding System Obligations, there are no liens or encumbrances of any nature, whatsoever, on or against the System or the revenues derived or to be derived from the operation of the same.

INTERIM PROMISSORY NOTE
($20,000,000 Environmental Services Division Loan)

To the New Mexico Environment Department (NMED)
Clean Water State Revolving Loan Fund (CWSRF)
-also known as-
Wastewater Facility Construction Loan Program

FOR VALUE RECEIVED, the **City of Santa Fe** (Borrower) promises to pay the NMED at:

New Mexico Environment Department
Construction Programs Bureau
1190 S. St. Francis Drive
P.O. Box 5469
Santa Fe, New Mexico 87505

or by electronic funds transfer (EFT)

or at such other place as NMED may hereafter designate in writing, the principal amount of

Twenty Million Dollars ($20,000,000)

or so much of that amount as has been paid by NMED to the Borrower pursuant to the terms of the Interim Loan Agreement (Agreement) or any amendment to the Agreement for CWSRF 140 A-F between NMED and the Borrower plus **0.01% project interest annually** from the date of each respective disbursement annually until paid in full. Effective on the execution of the Agreement.

The principal plus interest due, if applicable, and payable on this Note shall be payable as follows: Principal loaned, and the subsequent interest shall be due and paid according to the Final Promissory Note as described.

Repayment Rate and Schedule

Annual principal and interest payments will commence not later than one year after completion of the project and shall be paid in annual installments due on the anniversary of the first annual installment. A Final Promissory Note will be processed and executed, and the Agreement will be amended and executed as a Final Loan Agreement to reflect the final amount loaned by NMED to Borrower. The principal amount of the Final Promissory Note and Agreement, as amended, will be an amount equal to that loaned and paid to Borrower under this Note.

Source of Repayment

The Borrower is giving a security interest by dedicating the Pledged Funds. The Pledged Funds are defined as **Net Environmental Services Division System Revenue**. Except as stated in the Ordinance, the Pledged Funds have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Pledged Funds on the date of the Ordinance. The loan will be payable and collectible solely from the Pledged Funds.

Assignment

No assignment by NMED of the right to receive payments under this Note shall affect the Borrower's obligations or rights other than to make payments either by EFT or at the address designated by NMED to the Borrower in writing.

Collection and Default

At the option of NMED, any amount paid by NMED to collect amounts due under this Note or to preserve or protect NMED's rights under the Agreement shall become a part of, and bear interest at the interest rate as set forth in the previous REPAYMENT RATE AND SCHEDULE section above and shall become immediately due and payable by the Borrower to NMED upon demand by NMED. Events of default and remedies upon an event of default as described in the Agreement in COVENANTS are incorporated herein by reference.

Prepayment

The Borrower may prepay all or any part of the principal of this Note without penalty. Extra payments, shall, after payment of interest due, be applied to the reduction of principal. After any prepayment of principal, the Borrower shall continue to pay the amounts listed in the Agreement and Final Promissory Note until the entire principal and interest are paid in full.

Authority

This Note is authorized by the Wastewater Facility Construction Loan Act, NMSA 1978, § 74-6A-1 et seq., as amended, the New Mexico Water Quality Control Commission Regulations, 20.7.5 NMAC, the New Mexico Environment Department Regulations, 20.7.6 – 20.7.7 NMAC, and the Borrower's Ordinance No. 2024-6.

This Note shall not constitute indebtedness or debt within the meaning of any constitutional, charter or statutory provision, or limitation, nor shall this Note be considered or held to be a general obligation of the Borrower. The obligations of the Borrower under the Agreement and Note are payable and collectible solely out of the Pledged Funds as defined in the Agreement, and NMED or any other holders of the Agreement or Note may not look to any general or municipal fund for the payment of the principal or interest on the Agreement or Note.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and effective as of the date listed below by the Borrower.

_____
Borrower's Authorized Signature

_____
Borrower's Printed Name

_____
Title

_____
Date

State of _

County of

Signed or attested before me on _____ by _____ ,
Date Witness for City of Sant Fe

_____
Notarial Officer Signature

[Official Stamp] Title of Office:

Clean Water State Revolving Loan Fund Interim Loan Agreement

City of Santa Fe

$114,000,000 Wastewater Utility System Loan Agreement

(Made pursuant to Funding Package consisting of
$151,000,000 total Loan at 0.01%

The following items are included as part of the funding agreement:

- **Financial Pages and NMED Project Conditions, General Conditions, and Covenants**
- **Covenants and Provisions Applicable to Net Wastewater Utility System Revenue / Debt Obligations (Attachment 1)**
- **CWSRF Federal Requirements:**

  Applies to All Projects:

  - **Super Crosscutters**
  - **Generally Accepted Government Accounting Practices**
  - **Useful Life**
  - **Office of the Inspector General Poster**
  - **Cost and Effectiveness**

  Applies only to Treatment Works Projects (UV Disinfection and Sewer Line Repair):

  - **American Iron and Steel**
  - **State Environmental Review Process**
  - **Davis-Bacon Wage Rates**
  - **Fiscal Sustainability Plan**

NEW MEXICO
ENVIRONMENT DEPARTMENT

INTERIM LOAN AGREEMENT
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
CLEAN WATER STATE REVOLVING LOAN FUND (CWSRF) –also known as-
WASTEWATER FACILITY CONSTRUCTION LOAN PROGRAM

Loan Number: CWSRF 140 A-F

Name of Borrower: **City of Santa Fe**

$114,000,000 Wastewater Utility Loan Agreement (made as part of total CWSRF Loan package of $151,000,000, Interest Rate: 0.01%

This Interim Loan Agreement (Agreement) between the New Mexico Environment Department (NMED) of the State of New Mexico and the City of Santa Fe (Borrower) becomes effective on the date signed by the NMED. Borrower has enacted Ordinance No. 2024-6 approved on August 14, 2024 (as amended by Ordinance No. 2025-___ approved on _____, 2025), hereinafter referred to as the "Ordinance") which authorizes execution of this Agreement, authorizes the Borrower to accept loan funds from NMED, and irrevocably pledges Net Wastewater Utility System Revenues and Environmental Services Gross Receipts Tax Revenues (Pledged Funds) for the repayment of the loan.

Listed below are agency contacts.

Borrower's Name and Address: City of Santa Fe 200 Lincoln Avenue PO Box 909 Santa Fe, New Mexico 87504-0909	**NMED:** New Mexico Environment Department Clean Water State Revolving Fund Program P.O. Box 5469 Santa Fe, New Mexico 87505 NMENV-cpbinfo@state.nm.us
Borrower's Contact Information: _____, Public Utilities Director (505) 955-4650	**NMED Contact Information:** Stephanie DuBois, Project Engineer (505) 538-5539, stephanie.dubois@env.nm.gov Maria Molina, Program Administrator (505) 670-3876, maria.molina2@env.nm.gov

Jonna Leigh Stack, Project Administrator 505-955-4206 jlstack@santafenm.gov	Rhonda Holderman, Financial Manager, Loans and Grants (505) 363-9396, Rhonda.holderman@env.nm.gov
Emily K. Oster, Finance Director	
(505) 955-6171	
5ekoster@santafenm.gov	

Incorporated as part of this Agreement as though fully set forth in this Agreement is the following:

Borrower's Loan Ordinance
Interim Promissory Note
Proposed Loan Amortization Schedule
Project Description Form

I. Project Description:

A. Projects under this agreement include:

- UV Disinfection Replacement Project.
- Sanitary Sewer Line Repair.
- Wastewater Treatment Plant Repair and Rehabilitation Project.

B. Borrower agrees that it will implement, in all respects, the project outlined in the attached Project Description, and made a part of this Agreement.

C. Borrower agrees to make no change in the Project Description without first submitting a written request to NMED and obtaining NMED's written approval of the required change, and if necessary, an amended loan agreement.

II. Loan Amount:

NMED agrees to loan funds to the Borrower to pay for approved costs to plan, acquire and construct the Project, in an amount not to exceed: $114,000,000 (Wastewater System Loan Amount) at the **interest rate of 0.01% annually** upon the terms and conditions set forth in this Agreement and the Interim Promissory Note.

Provided the Borrower complies with the Construction Conditions and the CWSRF Requirements below, the loan amount will be available for a period of three **(3) years** from the date of this Agreement. Subject to completion of the Project within the three (3) year construction period, Borrower shall determine the construction schedule for the project in its reasonable discretion.

III. Funding:

A. Project interest accrues during construction at **0.01%** annually from the

date of each disbursement from NMED to the Borrower up to the date the final disbursement request is approved by NMED. The interest accrued during construction, if applicable, shall be payable as follows:

1. Project Interest shall be due and payable in one lump sum within two weeks of receiving notice of final loan amount from the NMED, or

2. Project Interest shall be added to the loan amount disbursed and shall become part of the principal due during the term of the Final Promissory Note.

B. FINANCE COSTS

Finance costs, if applicable, will be determined upon the issuance of the Final Loan Agreement and will be based on the final amount loaned, accrued project interest and agreed upon repayment terms.

C. REPAYMENT TERMS

Repayment terms will be determined upon issuance of the Final Loan Agreement. Any loan term must be substantiated by the Borrower., and the loan term shall not exceed the average economic life of the project as a whole.. Repayment will begin not less than one year after project completion. Repayment need not be based on level payments of principal and interest, but may instead be structured to address Borrower's needs with respect to cash flow, anticipated utility rate increases, and other relevant factors, in Borrower's discretion; provided, that structured repayments shall not be interest-only, but shall include annual amortization of a portion of unpaid principal and payment of interest.

The Borrower may pay off ("Prepay") all or any part of the loan at any time following delivery of written notice to NMED of Borrower's election to Prepay, specifying the principal amount to be prepaid, together with interest thereon accrued to the date of prepayment.

D. ACTUAL LOAN AMOUNT DISBURSED

(i) If the loan amount disbursed is less than the amount in Section III. Loan Amount, then the Final Loan Agreement and the Final Promissory Note shall reflect actual loan disbursements. If the Borrower does not pay the Project Interest within two weeks of receiving notice of final loan amount from the NMED, then the accrued Project Interest shall be incorporated into the principal amount in the Final Promissory Note.

(ii) At the Borrower's request, NMED will reallocate unused loan amounts for other eligible projects of the Borrower, and will either amend an existing loan agreement and note ("Loan Documentation") or enter into new Loan Documentation with Borrower reflecting the reallocation of unused proceeds for other eligible purposes. Borrower shall be responsible for determining that funds pledged for repayment in connection with such Loan Documentation is from an appropriate source.

(iii) Within the State and Federal requirements applicable to the Loan Agreement, NMED intends to utilize amounts repaid by Borrower hereunder to provide additional loans to Borrower for eligible purposes, at Borrower's request.

E. SECURITY – PLEDGED FUNDS

The Borrower is giving a security interest by dedicating the Pledged Funds. The Pledged Funds are defined as (1) Net Revenues of the Wastewater Utility System owned and operated by the City of Santa Fe, and (2) Environmental Services Gross Receipts Tax Revenues, as more specifically defined in the Covenants and Provisions Applicable to Net Wastewater Utility System Revenue / Environmental Services Gross Receipts Tax Revenue Debt Obligations, attached hereto as Attachment 1 ("Attachment 1"), which are hereby incorporated in this Agreement.

Except as stated in Attachment 1, the Pledged Funds have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Pledged Funds on the date of the Ordinance. The loan will be payable and collectible solely from the Pledged Funds.

F. DEFAULT AND LATE CHARGES

Failure by the Borrower to pay the annual payments as set forth in the Final Loan Agreement and Final Promissory Note shall constitute an event of default. Late charges may be assessed at the discretion of NMED. See VI. COVENANTS, Sections H and I for default procedures.

G. DEMAND FEATURE

This Agreement has a demand feature in the event of default and the total principal and interest due shall be paid on demand. See VI. COVENANTS Sections H and I for default procedures.

H. NO DEBT SERVICE RESERVE FUND OR MATCHING REQUIREMENTS.

Borrower shall not be required to establish a debt service reserve fund or to provide matching funds pursuant to this Agreement. In lieu of debt service reserve fund requirements, Borrower shall comply with the Rate Covenant herein. See VI, COVENANTS Section E.

IV. Project Conditions:

A. After the date of this Agreement, but prior to NMED's approval of the Contract Documents, for any phase, the Borrower's attorney shall provide an opinion satisfactory to NMED that the Borrower is an incorporated entity.

B. Upon execution of this Agreement, the Borrower shall follow the procedures listed below unless waived in writing by NMED. Disbursement by NMED may be withheld if any of these procedures are not followed by the Borrower.

1. If these Funds are to be used for engineering and/or other professional services, the Borrower shall submit documentation regarding the hiring process to be used and the (RFP), to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must comply with the New Mexico Procurement Code. NMSA 1978, Sections 13-1-21 et seq. Engineering Services must be chosen based on a qualification-based request for proposal process regardless of the anticipated cost. A minimum of three proposers must be interviewed as part of the selection process. The Borrower is also required to contact

the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB email ptab@acecnm.org.)

2. If these Funds are to be used for engineering and/or other

professional services, the Borrower shall submit a draft form of any engineering agreement and/or other professional services contract, or a letter certifying that the Borrower's staff will perform the engineering and/or other professional services, to NMED for review and approval prior to executing the agreement/contract or using Borrower's staff. The preferred engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at https://www.env.nm.gov/construction-programs/cpb-forms-and- documents-2/.

3. If these Funds are to be used for engineering design or for construction, the Borrower shall submit all plans, specifications, and any addenda for this project to NMED for review and approval before the project is advertised for construction bids. Plans, specifications, and addenda shall be prepared by a registered New Mexico Professional Engineer.

4. Following NMED approval of the proposed award, the Borrower shall submit to NMED for review the notice of the award and the minutes of meeting in which award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed. The selected contractor will be required to post a performance and payment bond in accordance with requirements of NMSA 1978, Section 13-4-18.

5. The selected contractor will be required to submit a construction schedule to the Borrower at the pre-construction conference.

6. The Borrower will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. NMED's written decision approving or disapproving the modification shall be rendered promptly to the Borrower. If immediate action is needed, a verbal notification of NMED's decision will be made, followed by written notification.

7. The Borrower shall provide a full-time construction inspector during construction of the project. The Borrower shall submit the inspector's résumé and inspection reports to NMED for review and approval.

8. NMED shall have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans.

9. NMED may require proof of deposit and/or proof of payments to contractors and consultants, including the disbursement of funds other than those provided by the Agreement.

10. The Borrower (or the system owner) shall employ properly certified utility operators and shall comply with all provisions of the New Mexico Utility Operators Certification Act, NMSA 1978, Sections 61- 33-1 et seq.

11. With the exception of easements (See Section V.H), when real property is acquired by the Borrower, either through purchase or donation as a part of this project and within the project period, the Borrower will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Borrower will make available to NMED all documents of title pertaining to the acquired property and all easements or rights- of-way necessary for the completion of work under this agreement.

12. If the Funds are to be used for construction of wastewater collection lines or water distribution lines, the existing population served by the project shall be connected to the collection system or distribution system within a reasonable time after project completion. This will be accomplished by adoption and annual review of an Ordinance/Resolution and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

13. Notwithstanding the other provisions of this Agreement the Borrower shall comply with the Prompt Payment Act, NMSA 1978, Sections 5728-1 et seq. The Project will not be considered complete until the work as defined in this Agreement has been fully performed, and finally and unconditionally accepted by the Borrower and NMED.

14. If the Funds are to be used for construction, final disbursement will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:

    a) Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals.

    b) A final reimbursement request including the final certified construction pay request prepared by the Borrower's project engineer and approved by the Borrower.

    c) A certificate of substantial completion including punch list items.

    d) A letter certifying project acceptance by the Borrower and the Borrower's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Borrower, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Borrower and contractors will be submitted to NMED for final review and approval.

    e) Certification letter by the Borrower that the Labor Standards Contract Provisions have been met.

    f) Record drawings prepared by the Borrower's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings.

    g) Complete and legally effective releases or waivers (satisfactory to the Borrower) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished thereunder. In lieu thereof and as approved by the Borrower, contractor(s) may furnish receipts or releases in full an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Borrower or its property might in any way be responsible,

have been paid or otherwise satisfied.

h) A written consent of the surety, if any, to final payment; and

i) Borrower's ledger sheets including all payments made by the Borrower may be requested with the final disbursement request and before the final disbursement request can be processed by NMED.

j) Verification to NMED of FSP and written certification that a FSP is in place.

15. The Borrower must ensure that each procurement contract contain the following term and condition: The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of the contract which may result in the termination of the contract or other legally available remedies.

16. The Borrower shall require the Contractor of the Project to post a performance and payment bond approved by NMED in the amount of the bid.

17. Bid tabulation and supporting documents (Contract Documents) shall be prepared and furnished to NMED within fifteen (15) days of bid opening. The Borrower shall not proceed with construction of the Project until NMED has approved the Contract Documents.

18. Any change order to the Project construction contract which results in a change to the Project's contract amount, scope of work, or schedule must be approved by NMED.

19. Borrower agrees to implement environmental recommendations that will be supplied by NMED prior to final Plan approval.

20. The Borrower must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. The Borrower must certify in writing that this has been done prior to the award of the construction contract. A site certificate addressing the property upon or through which the facility is being constructed and prepared by the

Borrower's attorney is required.

21. The Borrower agrees to obtain a single audit annually from an Independent Professional Auditor.

22. The Borrower shall achieve Project Completion by the end of the loan agreement term. Project Completion means the date the operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

23. If the Borrower is unable to complete the project by the loan termination date, the Borrower must notify NMED at least 30 days prior to the loan termination date, otherwise, NMED may terminate this Agreement or may withhold Funds. If NMED terminates this Agreement, the Borrower shall refund any Funds disbursed to the Borrower by NMED within ninety (90) days of termination.

V. General Conditions:

A. This Agreement is made pursuant to and in accordance with the provisions of the Wastewater Facility Construction Loan Act, NMSA 1978, § 74-6A-1 et seq., as amended, the New Mexico Water Quality Control Commission Regulations,
20.7.5 NMAC, and the New Mexico Environment Department Regulations, 20.7.6 –20.7.7 NMAC.

B. Pursuant to the Ordinance of the Borrower, the Borrower is authorized to enter into this Agreement and the Final Loan Agreement and to execute and deliver an Interim Promissory Note and Final Promissory Note. The terms of the Ordinance and Interim Promissory Note are incorporated as part of this Agreement as though fully set forth in this Agreement.

C. For the purposes of this Agreement, NMED's inspection, review and approval of the Project are only for the purposes of determining compliance with applicable State regulations. NMED approval shall not be interpreted as any warranty or guarantee. Approval of the plans and design of the Project means only that plans are complete. NMED will bring to the Borrower's attention any obvious defects in the Project's design, materials, or workmanship, but all such defects and their correction shall be the responsibility of the Borrower and its contractors. Any questions raised by NMED shall be resolved exclusively by the Borrower and its contractors, who shall remain responsible for the completion and success of the Project.

D. The Borrower warrants, represents and agrees that it, and its contractors,

subcontractors, employees, and representatives will comply with all applicable State and Federal laws and regulations, and the requirements set forth in this Agreement or any amendment to the Agreement.

E. If the Borrower seeks additional funding from any other entity for the Project, the Borrower agrees that the Borrower is solely responsible for satisfying any requirements arising as a result of funding from that other entity.

F. The Borrower warrants that the internal financial statements provided to NMED by the Borrower for approval of the loan do not contain false material statements, representations, certifications, or omissions of material fact.

G. The Borrower shall submit all future audited financial reports to the State Auditor as required by the State Auditor's Rules.

H. The proceeds of the loan shall be used for the Project and for no other purpose. Unallowable uses of the proceeds of the loan include but are not limited to paying administrative expenses (including applications for funding), costs of Borrower employees, late fees, interest, or penalties. Those costs shall be paid by the Borrower.

I. The parties agree that allowable costs will be limited to those costs that are necessary, reasonable, and related to the efficient achievement of the objectives of this Agreement. The Borrower must justify all expenditures for which it requests reimbursement, according to accepted NMED criteria and procedures. NMED may withhold reimbursement of any item or expenditure and may reclaim improperly documented reimbursement until the Borrower provides sufficient justification. NMED may not disburse any loan funds if the Borrower fails to adhere to the schedule described in Section IV. above.

J. For any phase of the Project which requires National Environmental Policy Act (NEPA) review, NMED shall not disburse any funds for that phase until a NEPA review is completed.

K. The Borrower agrees to abide by all required Equal Employment Opportunity laws, both State and Federal.

L. The Borrower agrees that it will take affirmative action to ensure that the Project is constructed in compliance with Federal and State occupational health and safety laws and that inspectors authorized by NMED's

Occupational Health and Safety Bureau will be given free access to the Project sites.

M. The Borrower agrees to make all fiscal records related to the Project available to NMED, the United States Environmental Protection Agency, the United States General Accounting Office (GAO), and the State Auditor for inspection and audit.

N. The obligations of the Borrower under the Agreement are the special limited obligations of the Borrower as set forth in the Agreement and the Note. The Agreement and the Note shall not constitute indebtedness or debt within the meaning of any constitutional, charter or statutory provision, or limitation, nor shall the Agreement and Note be considered or held to be a general obligation of the Borrower. The obligations of the Borrower under the Agreement and Note are payable and collectible solely out of the Pledged Funds as defined in the Agreement, and NMED or any other holders of the Agreement or Note may not look to any general or municipal fund for the payment due on the Agreement or Note.

O. The Borrower agrees to operate and maintain the Project so that the Project will function properly over the structural and material design life of the Project.

P. The loan will not be used by the Borrower on any project constructed in fulfillment, in whole or in part, of requirements made of a subdivider by the provisions of the Land Subdivision Act, NMSA 1978, § 47-5-1 to 47-5-8 NMSA 1978.

Q. The Borrower understands and agrees that the Project is subject to Federal and State regulations and acceptance of any disbursement pursuant to the Agreement constitutes an agreement by the Borrower that the amounts have been properly accounted for and expended in accordance with applicable Federal and State regulations.

R. The Borrower agrees to maintain separate Project accounts in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB) including standards relating to the reporting of infrastructure assets. If requested by NMED, the Borrower shall conduct an audit of the financial records pertaining to the Project.

VI. Covenants:

Attachment 1 (Covenants and Provisions Applicable to Net Wastewater Utility System Revenue Debt Obligations ("System Covenants")) is hereby incorporated hereinbelow and shall be controlling in the event of inconsistency between the System Covenants and the following covenants, but only to the extent of such inconsistency.

A. (i) Disbursements (payment of loan funds) to the Borrower made pursuant to the Agreement will be available on and after the date of the execution of the Agreement and Note if the Borrower is compliant with the Conditions and Covenants of the Agreement. Disbursements will be made only for actual costs incurred by the Borrower to plan, design, construct or acquire the Project, or any phase thereof. The Borrower shall request disbursements on forms acceptable to NMED on at least a quarterly basis and such requests shall be prepared by and certified by the Borrower. All disbursements to the Borrower will be made in accordance with applicable Federal and State regulations. Eligible planning, design and associated pre-building costs that are within the scope of the project and were incurred prior to signing the Agreement are payable under the Agreement and shall be submitted for reimbursement immediately upon execution of the Agreement. Interim disbursements will be made as the work progresses. Interim disbursement requests shall be submitted by the Borrower within ninety (90) days after the liability of the Borrower was incurred as evidenced by the date of the invoice for which disbursement is being requested. NMED shall use commercially reasonable efforts to disburse loan proceeds, or to notify Borrower that the disbursement request is incomplete or otherwise unsatisfactory, within 10 business days after receiving a disbursement request from Borrower.

(ii) NMED will compensate Borrower for the actual and reasonable costs of employing personnel (which may be a current employee of Borrower) tasked with assisting Borrower in preparing, documenting and submitting disbursement requests, and working with NMED to resolve issues relating thereto ("Disbursement Request Administration"). Reimbursement of the Borrower by NMED for the Borrower's actual and reasonable costs of employing such personnel is conditioned on the Borrower providing reasonably detailed, contemporaneous time records describing the activities of such personnel in connection with Disbursement Request Administration as part of each disbursement request. [Such costs [will] [will not] be paid from loan proceeds.]

B. The Borrower shall not sell, lease, or transfer any property related to the Project except as permitted by the Ordinance/Resolution, as amended, and supplemented.

C. The Borrower shall not obligate the Pledged Funds for this Agreement except as set forth in the Ordinance as adopted at the time of execution of the Agreement.

D. The Borrower hereby irrevocably agrees that the Borrower has fixed and collected, or will fix and collect, adequate rates, fees, and other charges for the use of the System (as defined in the Ordinance) which will be sufficient to satisfy the Agreement and the Note.

E. If the pledged funds shall prove insufficient to produce the Repayments set forth herein and in the Interim and Final Promissory Note, the Borrower agrees to adjust and increase such rates, fees, and charges in the manner authorized by law to provide funds sufficient to produce the repayment of the loan set forth herein and in the Interim and Final Promissory Note, as set forth in the Rate Covenant in the System Covenants.

F. The Borrower shall not provide any free services of the Wastewater System. The Borrower shall, to the full extent permitted by law, collect payment for wastewater services provided. The Borrower shall notify NMED should delinquent users impact their ability to service this agreement as defined.

G. The Borrower shall maintain property, liability and fidelity insurance coverage on the Project as required by NMED and provide written proof of such insurance coverage to NMED.

H. The following shall constitute an event of default under the Agreement:

1. The failure by the Borrower to pay the annual payment on the repayment of the loan set forth in the Agreement and Interim and Final Promissory Notes when due and payable either at maturity or otherwise or

2. Default by the Borrower in any of its covenants or conditions set forth under the Agreement (other than a default set forth in the previous clause of this section) for 60 days after NMED has given written notice to the Borrower specifying such default and requiring the same to be remedied.

I. Upon occurrence of an event of default:

1. The entire unpaid amount of the Agreement and Interim and Final Promissory Note may be declared by the NMED to be immediately due and payable, and the Borrower shall pay the amounts due under the Agreement and Interim and Final Promissory Note from the Pledged Funds, either immediately or in the manner required by NMED in its declaration.

2. If the event of default is under clause one of Subsection H, NMED is authorized to set wastewater user rates in the area of the Borrower's jurisdiction in order to provide sufficient money for repayment, on scheduled due dates of the loan and proper operation and maintenance of the System. Funds sufficient to provide for repayment, on scheduled due dates of the loan and proper operation and maintenance of the System shall be identified through a rate-setting analysis that will ensure enough revenue to cover yearly expenses and emergencies, a reserve fund for non-major capital items and equitable pay for staff. The rate-setting analysis may be reviewed and changed on a yearly basis if necessary.

3. If default by the Borrower is of covenants or conditions required under the Agreement, the Borrower may be required to refund the amount of the loan disbursed to the Borrower from NMED.

4. NMED shall have no further obligation to make disbursements to the Borrower under the Agreement and may pursue any other appropriate remedies.

J. NMED retains the right to seek enforcement of the terms of the Agreement. If the parties cannot reach agreement regarding disputes as to the terms and conditions of this Agreement, such disputes are to be resolved in the district court of Santa Fe County. The parties agree that the district court for

Santa Fe County shall have exclusive jurisdiction over the parties and the subject matter of this Agreement and waive the right to challenge such jurisdiction.

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

L. This Agreement shall be binding upon and inure to the benefit of the Borrower, NMED and their respective successors. The rights and obligations under the Agreement and Interim and Final Promissory Note may not be assigned by the Borrower.

M. No change shall be made to the Agreement or the Interim and Final Promissory Note except in writing signed by NMED and the Borrower.

CWSRF FEDERAL REQUIREMENTS: APPLIES TO ALL PROJECTS

New Mexico CWSRF Loan Agreement Provision LA 1: Anti-Discrimination Laws (Super Cross- Cutters)

All recipients of CWSRF financial assistance are required to comply with the following provisions:

Civil Rights Laws (i.e., Super Crosscutters)

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1251
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794
- The Age Discrimination Act of 1975, 42 U.S.C. § 6102

These four laws prohibit discrimination in the provision of services or benefits, on the basis of race, color, national origin, sex, disability, or age, in programs or activities receiving federal financial assistance. All recipients of CWSRF financial assistance must agree, and required their contractors and subcontractors to agree, not to discriminate on the basis of race, color, national origin, sex, disability or age.

New Mexico CWSRF Loan Agreement Provision LA2: Generally Accepted Governmental Accounting

All recipients of CWSRF financial assistance (Assistance Recipients) are required to comply with the following provisions:

Section 602(b)(9) of the Federal Water Pollution Control Act (FWPCA) states:

(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets

The most recent applicable standard is GASB Statement No. 34 (GASB 34), issued in June 1999, which details governmental reporting requirements including standards for reporting of infrastructure assets. Further details on the requirements, as well as the full text of GASB 34, can be obtained through the GASB. CWSRF assistance recipients that follow GAAP standards other than GASB 34 are still required to maintain project accounts according to GAAP and apply GAAP standards for reporting on infrastructure assets.

Pursuant to Section 602(b)(9) of the FWPCA, all CWSRF Assistance Recipients must agree to maintain project accounts according to Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), using standards relating to the reporting of infrastructure assets.

New Mexico CWSRF Loan Agreement Provision LA13: Useful Life Requirement

All recipients of CWSRF financial assistance are required to comply with the following provisions:

Section 603(d)(1)(A) of the Clean Water Act (as amended) restricts the terms of CWSRF loans to the lesser of 30 years or the useful life of the project. All applicants for CWSRF financial assistance agree to provide an engineer's estimate of the useful life of project components to be funded by the CWSRF.

New Mexico CWSRF Loan Agreement Provision LA14 Office of Inspector General Posting

The US Environmental Protection Agency requires that contracts exceeding $1,000,0000 prominently display the Office of the Inspector General Hotline poster within contractor work areas and facilities where work is performed.

Posters may be obtained at: https://www.epa.gov/office-inspector-general/poster-report-fraud-waste-and-abuse-epa-oig-hotlineThe parties have executed this Agreement on the dates set forth by their respective names.

LA 18 Cost and Effectiveness—Government Requirement

Under the Federal Water Pollution Control Act (FWPCA) section 602(b)(13), the CWSRF program requires that all assistance recipients certify that they have conducted the studies and evaluations described in 602(b) (13 (A) and (B) herein referred to collectively as a cost and effectiveness analysis. The statute requires that a cost and effectiveness analysis involve, at a minimum:

- the study and evaluation of the cost and effectiveness of the processes, materials, techniques, and technologies for conducting the proposed project or activity for which assistance is sought under this title; and
- the selection, to the maximum extent practicable, of a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, considering—
    - the cost of constructing the project or activity.
    - the cost of operating and maintaining the project or activity over the life of the project or activity; and
    - the cost of replacing the project or activity.

CWSRF FEDERAL REQUIREMENTS: APPLIES ONLY TO TREATMENT WORKS PROJECTS

(UV Disinfection and Sewer Line Repair):

AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

The Federal Water Pollution Control Act (P.L. 92-500) Section 608 requires Clean Water State Revolving Loan Fund (CWSRF) and Drinking Water State Revolving Loan Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works.

The Act states:

> SEC. 608. REQUIREMENTS.
> *(a)* IN GENERAL.—Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.
> *(b)* DEFINITION OF IRON AND STEEL PRODUCTS.—In this section, the term `iron and steel products' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials.
> *(c)* APPLICATION.—Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—
>
> (1) applying subsection (a) would be inconsistent with the public interest.
> (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
> (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.
>
> *(d)* WAIVER.—If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Environmental Protection Agency.
> *(e)* INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.
> *(f)* MANAGEMENT AND OVERSIGHT.—The Administrator may retain up to 0.25 percent of the funds appropriated for this title for management and oversight of the requirements of this section.
> *(g)* EFFECTIVE DATE.—This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that

agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of enactment of the Water Resources Reform and Development Act of 2014.

AMERICAN IRON AND STEEL (AIS) GUIDANCE

The following guidance excerpt has been provided from EPA:

(Complete guidance may be downloaded from: https://www.epa.gov/cwsrf/state-revolving-fund- american-iron-and-steel-ais- requirement)

Covered Iron and Steel Products

11) What is an iron or steel product?

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:
Lined or unlined pipes or fittings;
Manhole Covers.
Municipal Castings (defined in more detail below),
Hydrants.
Tanks;
Flanges.
Pipe clamps and restraints; Valves.
Structural steel (defined in more detail below);
Reinforced precast concrete; and
Construction materials (defined in more detail below).

12) What does the term 'primarily iron or steel' mean?

'Primarily iron or steel' places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

13) Can you provide an example of how to perform a cost determination?

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem coupling, valve, seals, etc.).
However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete, which is addressed in a later question.

14) If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product

be produced in the US?

The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

15) What is the definition of steel?

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

16) What does 'produced in the United States' mean?

Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

17) Are the raw materials used in the production of iron or steel required to come from US sources?

No. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

18) If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?

No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example, trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

19) What is the definition of 'municipal castings?

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches;
Ballast Screen.
Benches (Iron or Steel);
Bollards.
Cast Bases.
Cast Iron Hinged Hatches, Square and
Rectangular; Cast Iron Riser Rings.
Catch Basin Inlet;
Cleanout/Monument Boxes;
Construction Covers and Frames;
Curb and Corner Guards.
Curb Openings.
Detectable Warning Plates;
Downspout Shoes (Boot,
Inlet).
Drainage Grates, Frames and Curb Inlets;
Inlets.
Junction
Boxes.
Lampposts.
Manhole Covers, Rings and Frames, Risers,
Meter Boxes.
Service Boxes.
Steel Hinged Hatches, Square and Rectangular;
Steel Riser Rings.
Trash
receptacles;
Tree Grates.
Tree Guards;
Trench Grates;
and
Valve Boxes, Covers and Risers.

20) What is 'structural steel'?

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

21) What is a 'construction material' for purposes of the AIS requirement?

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical

components, equipment and systems. Some of these products may overlap with what is also considered "structural steel". This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

22) What is not considered a 'construction material' for purposes of the AIS requirement?

Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system. The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters,
heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

23) If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?

No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

24) What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?

While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the US.

<u>Certification and Compliance</u>

NMED Form #C4 "American Iron and Steel (AIS) Certification" must be executed and included in the bid package. Failure to complete the certification will result the bid being returned. The contractor will

supply to the loan recipient manufacturers' certifications for each iron and steel item documenting/asserting that all manufacturing processes occurred in the United States. Such certifications will be submitted with shop drawings.

Waiver Process

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework is described in the guidance document found at: https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-waiver-process

Approved and denied waivers may be reviewed at: https://www.epa.gov/cwsrf/american-iron-and- steel-requirement-approved-project-waivers and https://www.epa.gov/cwsrf/american-iron-and- steel-requirement-withdrawn-or-denied-waivers

De Minimis Materials Waiver

The EPA has granted a nationwide waiver of the AIS requirements of the Consolidated Appropriations Act under the authority of Section 436(b)(1) (public interest waiver) for de minimis incidental components of eligible infrastructure projects. For many of these incidental components, the country of manufacture and the availability of alternatives is not always readily or reasonably identifiable prior to procurement in the normal course of business; for other incidental components, the country of manufacture may be known but the miscellaneous character in conjunction with the low cost, individually and (in total) as typically procured in bulk, mark them as properly incidental. Examples of incidental components could include small washers, screws, fasteners (i.e., nuts and bolts), miscellaneous wire, corner bead, ancillary tube, etc. Examples of items that are clearly not incidental include significant process fittings (i.e., tees, elbows, flanges, and brackets), distribution system fittings and valves, force main valves, pipes for sewer collection and/or water distribution, treatment and storage tanks, large structural support structures, etc.

Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the total materials used in and incorporated into a project; the cost of an individual item may not exceed 1 percent of the total cost of the total materials used in and incorporated into a project. Contractors who wish to use this waiver should determine the costs of all items installed or supplied for the project. The contractor must retain relevant documentation (i.e., invoices) for each of these items in their project files and must summarize the

items in monthly draw requests to the owner: the total cost of all materials, the total cost of "incidental" materials, and the calculations by which they determined the percentage of incidental products installed or supplied for the project. None of the products specifically listed as "Covered Iron and Steel Products" are incidental, nor are the products identified in detail in the technical specifications.

New Mexico CWSRF Loan Agreement Provision LA9 Environmental Review Requirements

The Federal Water Pollution Control Act section 511(c)(1) applies the National Environmental Policy Act (NEPA) to assistance for the construction of treatment works. All CWSRF-funded projects involving the construction of treatment works, regardless of the source of the funding, must undergo an environmental review following the procedures in NMED's State Environmental Review Process.

Assistance recipients ("sub-recipients") for CWSRF-funded treatment works projects are required to comply with Section 513 of the Federal Water Pollution Control Act (P.L. 92-500, as amended by the Water Resources Reform and Development Act of 2014) requiring all laborers and mechanics employed by contractors working on treatment works to be paid prevailing wages as determined by the Secretary of Labor. It is considered a Davis-Bacon related Act.

DAVIS-BACON REQUIREMENT (GOVERNMENTAL ENTITIES)

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the Water Resources Reform and Development Act of 2014 (WRRDA), DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with NMED before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor https://beta.sam.gov/ weekly to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

(c) Sub-recipients shall review all subcontracts subject to DB entered into by prime contractors to verify

that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub-recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub-recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF - financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or -FY 2014 Water Resource Reform and Development Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub-recipients may obtain wage determinations from the U.S. Department of Labor's web site,

www.dol.gov.

(ii)(A) The sub-recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub-recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub-recipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub-recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably

anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(2) Withholding. The sub-recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub-recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub-recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for

this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the sub-recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub-recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work

they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until

an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub-recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii)The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The sub-recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub-recipient**,** upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub-recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub-recipient shall insert in any such contract a clause providing hat the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub-recipient shall periodically interview a sufficient number of employees entitled to DB

prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub-recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub-recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub-recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub-recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The sub-recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub-recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub-recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub-recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub-recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub-recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub-recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

DAVIS-BACON REQUIREMENT (NON-GOVERNMENTAL ENTITIES)

Under these terms and conditions, the sub-recipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2014 Water Resource Reform and Development Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with NMED before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients must obtain proposed wage determinations for specific localities at https://beta.sam.gov/. After the Sub-recipient obtains its proposed wage determination, it must submit the wage determination to the **New Mexico Environment Department Construction Programs Bureau** ((505)-469-3459) for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official.)

(b) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor https://beta.sam.gov/. on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

(d) Sub-recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the

contract or ordering instrument by change order. The sub-recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub-recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF - or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2014

(b) Water Resource Reform and Development Act -, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub-recipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The sub-recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub-recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub-recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub-recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(2) Withholding. The sub-recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any

other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub-recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub-recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the sub-recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the

Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub-recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer

and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the

Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii)Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub-recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. **4. Contract Provision for Contracts in Excess of $100,000.**

(a) Contract Work Hours and Safety Standards Act. The sub-recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub-recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub-recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years

from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub-recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub-recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub-recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub-recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub-recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub-recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c). The sub-recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub- recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the sub-recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub-recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub-recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The sub-recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub-recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

	Fiscal Sustainability Plan Requirement	LA15

The 2014 Clean Water Act amendments require recipients of CWRF loans for projects involving a publicly owned treatment works to certify that they have developed and implemented a Fiscal Sustainability Plan (FSP) or another plan that meets minimum requirements, or that they will prepare an FSP. The minimum required elements for an FSP are listed in Section 603(d)(1)(E) of the Clean Water Act. Loan recipients shall develop and implement a FSP that includes the following:

- An inventory of critical assets that are part of the system. Critical assets are those that are necessary for sustained system performance.
- An evaluation of the condition and performance of critical assets.
- A plan for maintaining, repairing and replacing critical assets and for funding those activities.
- An evaluation and implementation plan for water and energy conservation.

The FSP requirement applies to all publicly owned treatment works construction or design/ construction projects funded in-part or in-full of State Revolving Fund (SRF) loans. The FSP must cover the entire project for which SRF funding is provided.

At the completion of the project, the loan recipient can:

Certify that a Fiscal Sustainability Plan (FSP) has been developed and implemented that meets the minimum required elements listed above. The FSP certification statement must be submitted before a final loan agreement is executed. The FSP will be available for NMED review during a site visit or inspection.

Agree to develop and implement a Fiscal Sustainability Plan (FSP) that will meet the minimum required elements listed above. The certification statement must be submitted before a final loan agreement is executed. The FSP must be completed prior to final disbursement. The FSP will be available for NMED review during a site visit or inspection.

By executing this Agreement, the undersigned represents authorization to act on behalf of the Recipient.

BY:

_____

Signature of duly authorized Recipient
Official City of Santa Fe

_____

Print Name

_____

Title

_____

Date

Issued and administered by:

New Mexico Environment Department
Wastewater Facility Construction Loan Program
Clean Water State Revolving Loan Fund

BY: _____

Constructions Programs Bureau, Bureau Chief
Signed pursuant to February 19, 2024, Secretary of Environment Delegation Order

ATTACHMENT 1

COVENANTS AND PROVISIONS APPLICABLE
TO OBLIGATIONS SECURED BY NET WASTEWATER SYSTEM REVENUES/
ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX REVENUES

Bracketed section references refer to the corresponding sections in Ordinance No. 2019-02 adopted by the Governing Body of the City of Santa Fe on January 30, 2019 ("Ordinance No. 2019-02) or the "Superior Obligations Ordinance").

Section 1. [Section 1.] Definitions.

"City's Chief Financial Officer" means the City officer currently designated as the "Finance Director" or his or her successor in function, provided that for purposes hereof, the designation of any successor in title by the City Manager, if given in writing, shall be conclusive.

"Consulting Engineer" means any registered or licensed professional engineer or firm of such engineers, entitled to practice and practicing as such under the laws of the State of New Mexico, retained and compensated by the City, but not in the regular employ of the City. The written determination by the Mayor or City Manager or the authorized designee of either, that an engineer or firm of engineers meets the foregoing qualifications of the preceding sentence shall be conclusive for purposes of any provision of this Agreement. As to construction drawings and specifications prepared for the Project by City employees working under the supervision of the City Engineer, this term may include the City Engineer.

"Agreement Debt Service Fund" means the fund established and maintained by the City for the deposit of Pledged Revenues in amounts sufficient to make timely payments of the Debt Service Requirements of this Agreement.

"Debt Service Requirements" for any period means the sum of: (i) the amount required to pay the interest, or to make reimbursements for payments of interest, becoming due on the applicable Obligations during such period; plus (ii) the amount required to pay the principal or accreted value, or to make reimbursements for the payment of principal or accreted value, becoming due on the applicable Obligations during that period, whether at maturity, an accretion term date or upon mandatory sinking fund redemption dates, plus (iii) any net periodic payments on a notional amount required to be made by the City pursuant to a Qualified Exchange Agreement minus (iv) any net periodic payments on a notional amount to be received by the City pursuant to a Qualified Exchange Agreement.

(a) No payments required on the applicable Obligations shall be included in any computation of Debt Service Requirements for any computation period prior to the maturity or otherwise certain due dates thereof which may occur because of the exercise of an option by the City, or which may otherwise become due by reason of any other circumstance or contingency, including acceleration, which constitute other than regularly scheduled payments of principal, accreted value, interest or other regularly scheduled payments on the applicable Obligations.

(b) Debt Service Requirements required to be made pursuant to a Qualified Exchange Agreement shall be based upon the actual amount required to be paid by the City, if any, to the Qualified Counterparty. In determining that amount, any payments required to be made by either party to the Qualified Exchange Agreement at a Variable Exchange Rate shall be computed, in determining the obligation of the City under the Qualified Exchange Agreement, using the procedures set forth in the ordinance in which Qualified Exchange Agreement was authorized.

(c) The computation of interest for the purposes of this definition shall be made without considering the interest rate payable pursuant to a Credit Facility, unless, at the time of

computation of Debt Service Requirements, payments on Obligations are owed to, or Obligations are owned or held by, the provider of a Credit Facility pursuant to the provisions of that Credit Facility.

(d) The accreted value of capital appreciation bonds shall be included in the calculation of interest and principal only for the applicable year during which the accreted value becomes payable.

(e) In any computation of Debt Service Requirements relating to the issuance of additional Parity Obligations:

(1) There shall be deducted from that computation (i) amounts on deposit in an escrow account related to an issue of Cross-over Refunding Obligations and (ii) proceeds of a series of Obligations deposited to the credit of an account for the payment of capitalized interest on Obligations included as part of the computation during the applicable period.

(2) There may be made the adjustment to the Debt Service Requirements applicable to Bond Anticipation Notes described in the ordinance in which the Bond Anticipation Notes were authorize.

(f) Except as otherwise provided in the ordinance authorizing the issuance of Crossover Refunding Obligations, the purchase or tender price of Put Obligations resulting from the optional or mandatory tender or presentment for purchase of those Put Obligations shall not be included in any computation of Debt Service Requirements.

"Environmental Services Gross Receipts Tax Ordinance" means the City Ordinance No. 1993-20 imposing the Environmental Services Gross Receipts Tax, as amended.

"Environmental Services Gross Receipts Tax Revenue Fund" means the "City of Santa Fe, New Mexico Environmental Services Gross Receipts Tax Revenue Fund," maintained by the City and continued by Section 19 of this ordinance, into which the City shall deposit the Environmental Services Gross Receipts Tax Revenues.

"Environmental Services Gross Receipts Tax Revenues" means the environmental services gross receipts tax revenues received by the City pursuant to Section 7-19D-10, NMSA 1978 and the Environmental Services Gross Receipts Tax Ordinance.

"Gross Revenues," "revenues," "gross revenues," "income" or "gross income" from the System means all income and revenues directly or indirectly derived by the City from the operation and use of the Wastewater System, or any part of the Wastewater System, and includes, without limitation, all revenues received by the City, or any municipal corporation or agency succeeding to the rights of the City, from the Wastewater System and from the sale and use of wastewater, wastewater services or facilities, or any other service, commodity or facility or any combination thereof furnished to the inhabitants in the customer service area for the Wastewater System. Such term also includes:

(a) Investment earnings allocated to the Wastewater Fund by the City from amounts in the Debt Service Fund and from surplus Wastewater System Net Revenues in accordance with the provisions of the ordinance or ordinances authorizing outstanding Wastewater System obligations under the heading Administration of Wastewater Fund and Pledged Environmental Services Gross Receipts Tax Revenue Fund.

(b) All income derived from the investment of any money in the Wastewater Fund and Wastewater System Rate Stabilization Account;

(c) Money released from the Wastewater System Rate Stabilization Account to the extent that the amount released is used to pay Wastewater System Operation and Maintenance Expenses or Debt Service Requirements on Parity Wastewater System Obligations in the year released; provided that withdrawals from the Wastewater Rate Stabilization Account shall not be included in Wastewater System Gross Revenues for the purposes of the Rate Covenant in any two consecutive calendar years;

(d) Property insurance proceeds which are not necessary to restore or replace the property lost or damaged and the proceeds of the sale or other disposition of any part of the Wastewater System; and

(e) That portion of expansion charges and/or impact fees established specifically to pay debt service on debt obligations.

Gross Revenues do not include:

(a) any money received as (i) wastewater testing fees, (ii) grants or gifts from the United States of America, the State or other sources, (iii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use or (iv) the capital improvement portion of any expansion charges and/or impact fees;

(b) taxes and/or fees collected by the City and remitted to other governmental agencies; and

(c) condemnation proceeds or the proceeds of any insurance policy, except any insurance proceeds derived in respect of loss of use or business interruption.

"Historic Test Period" means any twelve consecutive calendar months designated by an Authorized Officer from time to time out of the eighteen calendar months next preceding the date

of adoption of the City ordinance authorizing the issuance of System Obligations without regard to any resolution or ordinance supplementing or amending the authorizing ordinance.

"Independent Accountant" means any registered or certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the City, who (1) is, in fact, independent and not under the domination of the City, (2) does not have any substantial interest, direct or indirect, with the City, and (3) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City; "Independent Accountant" also means the State Auditor of the State of New Mexico.

"Net Revenues", "Net Revenues of the System", "net revenues" or "net income" means the Gross Revenues after deducting Operation and Maintenance Expenses of the System.

"Obligations" means bonds, notes or any other instrument which evidences a borrowing or other obligation of the City, including Qualified Exchange Agreements, secured by Pledged Revenues, issued or incurred for any purpose permitted by the Act or the Exchange Act, as amended from time to time.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the Wastewater System, in any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the Wastewater System including, without limiting the generality of the foregoing:

(a) legal and overhead expenses of the various City departments directly related and reasonably allocable to the administration of the Wastewater System;

(b) insurance premiums for the Wastewater System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) the costs of audits of the books and accounts of the Wastewater System:

(d) amounts required to be deposited in the Rebate Fund;

(e) salaries, administrative expenses, labor costs, surety bonds and the cost of materials and supplies used for or in connection with the current operation of the Wastewater System; and

(f) any fees required to be paid under any operation, maintenance and/or management agreement with respect to the Wastewater System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, liabilities incurred by the City as a result of its negligence or other misconduct in the operation of the Wastewater System, any charges for the accumulation of reserves for capital replacements or any Wastewater System Operation and Maintenance Expenses payable from moneys other than Wastewater System Gross Revenues.

"Operation and Maintenance Fund" means the "City of Santa Fe Wastewater Utility System Operation and Maintenance Fund" which is continued in Section 20A of Ordinance No. 2019-02.

"Outstanding Obligations" means, collectively, Outstanding Superior Obligations and Outstanding Subordinate Obligations.

"Outstanding Subordinate Obligations" means Obligations, including this Agreement

, secured by a pledged of Net System Revenues with a nonexclusive subordinate lien thereon, and a pledge of Environmental Services Gross Receipts Tax Revenues with a nonexclusive subordinate lien thereon.

"Outstanding Superior Obligations" means the City of Santa Fe, New Mexico Gross Receipts Tax (Subordinate Lien) / Wastewater System Refunding Revenue Bonds, Series 2012B, and the City of Santa Fe, New Mexico Net Wastewater Utility System / Environmental Services Gross Receipts Tax Improvement Revenue Bonds, Series 2019, each of which is secured by a pledged of Net System Revenues with a nonexclusive first lien thereon, and a pledge of Environmental Services Gross Receipts Tax Revenues with a nonexclusive subordinate lien thereon.

"Parity Subordinate Obligations" means this Agreement, the Outstanding Subordinate Obligations, and additional Subordinate Obligations, if any, issued with a lien on Pledged Revenues on parity with the lien thereon of this Agreement and the Outstanding Subordinate Obligations.

"Pledged Revenues" means, collectively, the Net Revenues and the Environmental Gross Receipts Tax Revenues.

"Rate Stabilization Fund" means the Wastewater System Rate Stabilization Fund continued in the applicable section of the ordinance in which Outstanding Obligations were authorized.

"Related Documents" means, in connection with Outstanding Obligations, the Pricing Certificate, the Bond Purchase Agreement, the Continuing Disclosure Undertaking, the Preliminary Official Statement, the Official Statement, and any other document or agreement

containing an obligation of the City as may be required in connection with the issuance of the Obligations.

"Replacement Fund" means the Wastewater System Replacement Fund continued in the applicable section of the ordinance in which Outstanding Obligations were authorized.

"System," or "Utility" means the municipally owned public utility designated as the City's wastewater utility system, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, construction or otherwise, and used in connection with the wastewater utility system of the City and in any way appertaining thereto, whether situated within or without the limits of the City.

"Wastewater Fund" or "Income Fund" means the "City of Santa Fe Wastewater System Gross Income Fund" which was created in Ordinance 1997-30 adopted by the City Council on October 29, 1997 and is continued in the applicable section of the ordinance in which Outstanding Obligations were authorized, which fund is held by the City.

Section 2. [Section 19.] Funds and Accounts. The City hereby creates, or continues, as applicable, the following special and separate funds:

A. Wastewater Fund. Continues the Wastewater Fund to be maintained and controlled by the City as a separate and distinct fund for deposit of the Gross Revenues.

B. Rate Stabilization Fund. Continues the Wastewater System Rate Stabilization Fund as a special and separate fund to be maintained and controlled by the City for the purposes described in Section 21.

C. Replacement Fund. Continues the Wastewater System Replacement Fund as a special and separate fund to be maintained and controlled by the City for the purposes described in Section 21.

D. Environmental Services Gross Receipts Tax Revenue Fund. Continues the Environmental Services Gross Receipts Tax Revenue Fund previously established and maintained by the City.

Section 3. [Section 20.] Deposit of Gross Revenues and Pledged Environmental Services Gross Receipts Tax Revenues. So long as any Obligations are outstanding, the Gross Revenues shall, immediately upon receipt thereof by the City, be set aside and deposited into the Wastewater Fund. All money deposited into the Wastewater Fund shall be held separate and apart from the City's general fund and applied only in accordance with the provisions of this ordinance and any other City ordinance authorizing the issuance of Obligations payable from the Net Revenues.

So long as any Obligations are outstanding, the Pledged Environmental Services Gross Receipts Tax Revenues shall, immediately upon receipt thereof by the City, be set aside and deposited into the Environmental Services Gross Receipts Tax Revenue Fund. All money deposited into the Environmental Services Gross Receipts Tax Revenue Fund shall be held separate and apart from the City's general fund and applied only in accordance with the provisions of this ordinance and any other City ordinance authorizing the issuance of Obligations payable from the Pledged Environmental Services Gross Receipts Tax Revenues.

Section 4. [Section 21.] Administration of Wastewater Fund and Pledged Environmental Services Gross Receipts Tax Revenue Fund. So long as any Superior Obligations shall be outstanding, either as to principal or interest or both, the following payments shall be made monthly from the Wastewater Fund:

A. Administration of Wastewater Fund. So long as any Obligations shall be outstanding, the following payments shall be made from the Wastewater Fund:

(1) Operation and Maintenance Expenses. As a first charge on the Wastewater System Gross Revenues, there shall be paid the Operation and Maintenance Expenses of the Wastewater System as they become due and payable.

(2) Debt Service Fund Payments. Second, concurrently with the payments described in paragraph A(1) of this Section, the following amounts shall be withdrawn from the Wastewater Fund and credited to the Debt Service Fund:

(a) Interest Payments. Monthly, commencing on the first day of the first month following the delivery of Superior Obligations, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on such Superior Obligations then outstanding and monthly thereafter commencing on each interest payment date, one-sixth (1/6th) of the amount necessary to pay the next maturing installment of interest on the outstanding Superior Obligations, and

(b) Principal Payments. Monthly, commencing on the first day of the first month following delivery of the Superior Obligations, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of principal on the Superior Obligations and monthly thereafter commencing on each principal payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal on the Superior Obligations.

(3) Third, subsequent to the payments required by the outstanding Superior Obligations, any balance remaining in the Wastewater Fund, after making the payments hereinabove provided, shall be used by the City for the payment of interest on and the principal of this Agreement and all other Outstanding Parity Subordinate Obligations or other obligations, if

any, having a lien on any of the Pledged Revenues subordinate to the lien thereon of Superior Obligations hereafter authorized, issued and payable from the Net Revenues, as the same become due. So long as this Agreement remains outstanding, either as to principal or interest or both, the following payments shall be made monthly from Net Revenues on a parity with the payments required by the outstanding Parity Subordinate Obligations:

(i) Agreement Debt Service Fund Payments. The following amounts shall be withdrawn from the Wastewater Fund (and on parity with other outstanding Parity Subordinate Obligations), and shall be concurrently credited to the Agreement Debt Service Fund (unless the City determines that such amounts shall be withdrawn from such funds in some other order):

(aa) Monthly, commencing on the first day of the month immediately succeeding the delivery of the final debt service schedule for the Agreement, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of interest on the Agreement, and monthly thereafter, commencing on each Interest Payment Date, one-sixth (1/6) of the amount necessary to pay the next maturing installment of interest on the Agreement.

(bb) Monthly, commencing on the first day of the month immediately succeeding the delivery of the final debt service schedule for the Agreement, an amount in equal monthly installments necessary, together with any other moneys therein and available therefor, to pay the next maturing installment of principal of the Agreement, and monthly thereafter, commencing on each principal payment date, one-twelfth (1/12) of the amount necessary to pay the next maturing installment of principal on the Agreement.

If prior to any interest payment date or principal payment date, there has been accumulated in the Debt Service Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs A(2)(a), A(2)(b)and A(3) above (whichever is applicable), may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

B. Administration of the Pledged Environmental Services Gross Receipts Tax Revenue Fund. So long as any of Obligations secured by Pledged Environmental Services Gross Receipts Tax Revenues are outstanding, the following payments shall be made from the Pledged Environmental Services Gross Receipts Tax Revenues:

(1) First, as a first charge on the Pledged Environmental Services Gross Receipts Tax Revenues, the amounts necessary to pay the Debt Service Requirements on outstanding bonds or obligations, with a lien on the Pledged Environmental Services Gross Receipts Tax Revenues prior and superior to the lien thereon of this Agreement as are required from the Environmental Services Gross Receipts Tax Revenue Fund, pursuant to the ordinances authorizing the outstanding superior Environmental Services Gross Receipts Tax obligations as required by such ordinances.

(2) Second, but subject to and after the withdrawals authorized by the preceding paragraph B(1), so long as this Agreement shall be outstanding, to the extent that any monthly payment required to be made into the Debt Service Fund has not been made from the Wastewater Fund or from any other legally available source, the following amounts shall be withdrawn from the Environmental Services Gross Receipts Tax Revenue Fund and credited to the Bond Fund:

(a) Interest Payments. Monthly, commencing on the first day of the first month following the delivery of the final debt service schedule for this Agreement, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of interest on this Agreement then outstanding and monthly thereafter commencing on each interest payment date, one-sixth (1/6th) of the amount necessary to pay the next maturing installment of interest on this Agreement, and

(b) Principal Payments. Monthly, commencing on the first day of the first month following the delivery of the final debt service schedule for this Agreement, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the next maturing installment of principal on this Agreement and monthly thereafter commencing on each principal payment date, one-twelfth (1/12th) of the amount necessary to pay the next maturing installment of principal thereon.

(3) Third, but concurrently with the payments required by paragraph B(2) of this section, funds remaining in the Environmental Services Gross Receipts Tax Revenue Fund, shall be used by the City to pay the Debt Service Requirements of such additional Parity Subordinate Tax Obligations, if any, hereafter authorized to be issued and payable from Pledged Environmental Services Gross Receipts Tax Revenues.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in subparagraphs B(2)(a), B(2)(b) and B(2)(c) (whichever is applicable) of this paragraph, may be appropriately reduced and the required monthly amounts again shall be so credited to such account commencing on such interest payment date or principal payment date (whichever is applicable).

C. Termination Upon Deposits to Maturity. No payment need be made into the Bond Fund if the amount in such funds totals a sum at least equal to the entire amount of Bonds then outstanding, both as to principal and interest to their respective maturities, and both accrued and not accrued, in which case, moneys in the Bond Fund in an amount at least equal to such principal and interest requirements shall be used solely to pay such as the same accrue and any moneys in excess thereof in the Bond Fund and any other moneys derived from the Pledged Revenues may be used in any lawful manner determined by the City.

D. Payment of Additional Environmental Obligations and Qualified Exchange Agreements. Either prior to, concurrently with or subsequent to the payments required by Paragraphs A and B of this Section [Section 21], depending upon whether the additional Obligations are Superior Environmental Services Gross Receipts Tax Obligations, Parity Subordinate Environmental Services Gross Receipts Tax Obligations, Parity Wastewater System / Environmental Services Gross Receipts Tax Obligations, Environmental Services Gross Receipts Tax Obligations, or subordinate Wastewater System / Environmental Services Gross Receipts Tax Obligations, as provided in this Ordinance, the Pledged Revenues shall be used by the City for the payment of Debt Service Requirements on this additional Obligations, if any, hereafter authorized to be issued and payable from the Pledged Revenues as the same accrue. In the event that such obligations are Parity Superior Obligations, the payments of Debt Service Requirements on such additional Obligations shall be made concurrently with the payments required by Paragraphs A(2) and B(2) of this Section 21 (provided that such payments may be made at any intervals as may be provided in the ordinance or resolution authorizing such additional Obligations). The following amounts required to be paid by the City shall be paid from Pledged Revenues with the same priority as other payments of Debt Service Requirements on Parity Superior Obligations:

(1) Any amount to reimburse or pay a bond insurer or reserve account insurer or guarantor, or to make payments or reimbursements pursuant to another Credit Facility, for payments of Debt Service Requirements made on Parity Superior Obligations; and amounts payable to a Qualified Counterparty under a Qualified Exchange Agreement, excluding Exchange Termination Payments, if such payments are designated in a City ordinance relating to that Qualified Exchange Agreement as having a lien on Pledged Revenues on a parity with the lien thereon of Parity Superior Obligations;

(2) Reimbursement of any reserve fund Credit Facility obtained for any issue of Parity Obligations; and

(3) Cash deposits to any required reserve fund established with respect to any issue of Parity Obligations.

Each payment of Debt Service Requirements on Parity Superior Obligations shall be transferred to the Paying Agent for payment of Parity Superior Obligations, or directly to a Qualified Counterparty, bond insurer, reserve account insurer or guarantor or other provider of a Credit Facility entitled to receive payments on Parity Superior Obligations, on or before the due date of such payment.

G. Use of the Wastewater System Rate Stabilization Fund. Amounts deposited in the Wastewater System Rate Stabilization Fund may be withdrawn at any time and used for any purpose for which Wastewater System Gross Revenues may be used.

Section 5. Additional Parity Subordinate Obligations. Parity Subordinate Wastewater System / Environmental Services Gross Receipts Tax Obligations may be issued for the purposes permitted by the Act including, but not limited to (i) financing the costs of a project; or (ii) providing additional funds for deposit into the Wastewater System Replacement Fund and

paying the costs incident to the issuance of such Parity Subordinate Obligations or any combination of the foregoing.

A. Limitations Upon Issuance of Additional Parity Subordinate Obligations. The tests required in this Section shall be performed without adjustment for payments to or withdrawals from the Wastewater System Rate Stabilization Fund. Except as permitted herein, prior to the issuance of additional Parity Subordinate Obligations, the City shall be current in making all deposits required by Section 3 and the following test shall be satisfied:

(i) a certificate prepared by the City Finance Director showing that the Pledged Revenues for the Historic Test Period were at least equal to 110% of the maximum combined annual Debt Service Requirements for all Outstanding Superior Obligations and Parity Subordinate Obligations which will be outstanding immediately after the issuance of the proposed Parity Subordinate Obligations, or

(ii) a certificate prepared by a Consulting Engineer showing that:

(a) the Pledged Revenues for the Historic Test Period were at least equal to 110% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Subordinate Obligations immediately preceding the issuance of the Parity Subordinate Obligations proposed to be issued; and

(b) for each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated completion date of the specified project(s) to be funded with the proceeds of such Parity Obligations, the Consulting Engineer estimates that the City will be in compliance with the Rate Covenant; and

(c) the estimated Pledged Revenues for each of the three Fiscal Years immediately following the latest estimated completion date for the specified project(s) to be financed with proceeds of such Parity Subordinate Obligations, as certified to the Consulting Engineer by an Authorized Officer of the City will be at least equal to 110% of the maximum combined annual Debt Service Requirements for all Outstanding Superior Obligations and Parity Subordinate Obligations which will be outstanding immediately after the issuance of the proposed Parity Subordinate Obligations.

For purposes of subsections (ii)(b) and (c) above, in estimating Wastewater System Net Revenues, the Consulting Engineer may take into account (1) reasonable Wastewater System Gross Revenues from specified Wastewater System projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Wastewater System Gross Revenues which have been approved by the City and will be in effect during the period for which the estimates are provided, and (3) any other increases in Wastewater System Gross Revenues which the Consulting Engineer believes to be a reasonable assumption for such period. With respect to Wastewater System Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Wastewater System Operation and Maintenance Expenses, (ii) Wastewater System Operation and Maintenance Expenses associated with the specified Wastewater System projects and (iii) such other factors, including inflation and changing operations or policies of the City, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made in determining the estimated Wastewater System Net Revenues and shall also

set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consultant may rely upon financial statements prepared by the City which have not been subject to audit by an Independent Accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the City shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

(iv) Nothing contained in this Agreement shall be construed to prevent the City from issuing bonds or other obligations with a lien on Pledged Revenues subordinate or junior to the lien of the Parity Subordinate Obligations on Pledged Revenues.

(v) The City may issue additional obligations payable from Pledged Revenues with a lien on Pledged Wastewater System Revenues superior to the lien of Parity Subordinate Obligations (provided, that such Superior Lien Obligations may be issued in compliance with the requirements for issuing such obligations as provided in the applicable section of the ordinance in which Outstanding Superior Lien Obligations were authorized).

Section 6. Refunding Bonds. The provisions of Section 4 hereof are subject to the following exceptions:

A. Privilege of Issuing Refunding Obligations. If at any time after this Agreement, or any part thereof, shall remain outstanding, the City shall find it desirable to refund any outstanding Parity Subordinate Obligations or other outstanding obligations payable from the Pledged Revenues, such bonds or other obligations, or any part thereof, may be refunded (but only

with the consent of the registered owner or owners thereof, unless the bonds or other obligations, at the time of their required surrender for payment, shall then mature, or shall then be callable for prior redemption at the City's option), regardless of whether the priority of the lien for the payment of the refunding obligations on the Pledged Revenues is changed (except as provided in Paragraph A of Section 5 and in Paragraphs B and C of this Section).

B. Limitations Upon Issuance of Refunding Obligations. No refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued on parity with this Agreement authorized, unless:

(1) The lien on the Pledged Revenues of the outstanding obligations so refunded is on parity with the lien thereon of this Agreement; or

(2) The refunding bonds or other refunding obligations are issued in compliance with Paragraph A of Section 5 of above.

C. Refunding Part of an Issue. The refunding bonds or other obligations so issued shall enjoy complete equality of lien with the portion of any bonds or other obligations of the same issue which is not refunded, if any there be; and the registered owner or owners of such refunding bonds or such other refunding obligations shall be subrogated to all of the rights and privileges enjoyed by the registered owner or owners of the bonds or other obligations of the same issue refunded thereby.

D. Limitations Upon Issuance of any Refunding Obligations. Any refunding bonds or other refunding obligations payable from the Pledged Revenues shall be issued with such details as the City may by ordinance provide, subject to the inclusion of any such rights and privileges designated in Paragraph C of this Section, but without any impairment of any contractual obligations imposed upon the City by any proceedings authorizing the issuance of any unrefunded

portion of such outstanding obligations of any one or more issues (including but not necessarily limited to the issue herein authorized). If only a part of the outstanding bonds and any other outstanding obligations of any issue or issues payable from the Pledged Revenues are refunded, then such obligations may not be refunded without the consent of the registered owner or owners of the unrefunded portion of such obligations, unless:

(1) The refunding bonds or other refunding obligations do not increase any aggregate annual principal and interest requirements evidenced by such refunding obligations and by the outstanding obligations not refunded on and prior to the last maturity date of such unrefunded obligations, or

(2) The refunding bonds or other refunding obligations are issued in compliance with Paragraph A of Section 5 above, or

(3) The lien on the Pledged Revenues for the payment of the refunding obligations is subordinate to each such lien for the payment of any obligations not refunded.

E. Cross-over Refunding Bonds. If the refunding bonds to be issued are Cross-over Refunding Bonds, the ordinance providing for the issuance thereof shall provide (1) that until the date on which the principal portion of the related Parity Subordinate Obligations being refunded is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds, the Cross-over Refunding Bonds shall not be Parity Subordinate Obligations and shall be payable solely from the escrow provided for in the related ordinance, and (2) a certificate of an Independent Accountant shall be prepared to demonstrate the sufficiency of the moneys and investments in the escrow to pay the principal of and interest on the Cross-over Refunding Bonds until the date on which the principal portion of the related Parity Subordinate Obligations being refunded is to be paid or redeemed and to pay or redeem the related Parity Subordinate Obligations being refunded.

Section 7. Protective Covenants. The City hereby covenants and agrees with each and every registered owner of Obligations that:

A. Rate Covenant.

(1) The City covenants that it will at all times fix rates and collect charges for each class of service rendered by the Wastewater System, and to, from time to time, amend or adjust such rates so that Wastewater System Gross Revenues, together with Pledged Environmental Services Gross Receipts Tax Revenues, shall always be sufficient to provide for the payment of the Debt Service Requirements on all Outstanding Superior Obligations, and that Wastewater System Gross Revenues, together with Pledged Environmental Services Gross Receipts Tax Revenues shall always be sufficient to provide for the payment of Parity Subordinate Obligations as and when the same become due and payable, to maintain the funds and accounts established in this Agreement, to provide for the payment of Wastewater System Operation and Maintenance Expenses which may be necessary to preserve the same in good repair and working order, including the necessary reserves therefor and all other payments necessary to meet on-going legal obligations to be paid at that time; and

(2) The City further covenants that it will at all times fix, charge and collect such rates and charges as shall be required in order that in each Fiscal Year the Wastewater System Net Revenues, together with the Environmental Services Gross Receipts Tax Revenues, shall at least equal the greater of (a) the Debt Service Requirements on all Outstanding Superior Obligations, this Agreement, and Parity Subordinate Obligations, if any, in such Fiscal Year and the deposits required by this Agreement to be made into the various funds of this Agreement in such year or (b) 110% of the Debt Service Requirements on all Outstanding Superior Obligations, this Agreement, and Parity Subordinate Obligations, if any, in such Fiscal Year.

Failure by the City to comply with the foregoing Rate Covenant in any Fiscal Year will not constitute an event of default under this Agreement so long as the City, within 180 days, adopts the schedule of rates and charges recommended or approved by a Consulting Engineer which would bring the City into compliance with the Rate Covenant. The City is also required under this Agreement in each Fiscal Year to complete a review of its financial condition for the purpose of estimating whether the Wastewater System Net Revenues, together with the Environmental Services Gross Receipts Tax Revenues, for such Fiscal Year and for the next succeeding Fiscal Year will be sufficient to comply with the Rate Covenant set forth above. If the City determines that the Wastewater System Net Revenues, together with the Environmental Services Gross Receipts Tax Revenues, may not be so sufficient, it shall forthwith cause the Consulting Engineer to make a study for the purpose of recommending a schedule of fees, rates and charges for the Wastewater System which, in the opinion of the Consulting Engineer, will cause sufficient Wastewater System Gross Revenues, together with the Environmental Services Gross Receipts Tax Revenues, to be collected in such Fiscal Year to comply with the Rate Covenant set forth above and will cause additional Wastewater System Gross Revenues to be collected in such Fiscal Year sufficient to eliminate the amount of any deficiency at the earliest practicable time within such Fiscal Year. The City shall as promptly as practicable adopt and place in effect the schedule of fees, rates and charges recommended or approved by the Consulting Engineer pursuant to this Agreement. In the alternative of establishing fees, rates and charges necessary to meet the Rate Covenant set forth above, the City may undertake steps to reduce Wastewater System Operation and Maintenance Expenses.

B. Lien on Lands Serviced by Wastewater System. New Mexico law grants the City a lien upon each lot or parcel of land for the charges imposed for water and wastewater

services supplied by the Wastewater System to the owner of such lot or parcel (except as otherwise provided in Section 3-23-6 NMSA 1978, as amended). The City will cause each lien to be perfected in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-5 NMSA 1978 as amended. The City will take all necessary steps to enforce the lien against any parcel of property the owner of which is delinquent for more than six months in the payment of charges imposed for the use of the Wastewater System.

C. Levy of Charges. The City will promptly fix, establish and levy the rates and charges which are required by the Rate Covenant. Unless contrary to any provision of applicable law, any ordinance adopted by the City to fix, establish and levy such rates and charges shall be deemed an administrative or executive matter not subject to any applicable referendum provisions of any City charter or state law. No reduction in any initial or existing rate schedule for the Wastewater System may be made unless:

(1) the City has fully complied with the provisions of Section 4 above for any 12 consecutive months out of the 16 calendar months immediately preceding the reduction of the rate schedule, and

(2) the audit required in subsection (H) of this Section or a separate certificate by an Independent Accountant for or relating to any 12 consecutive months out of the 16 calendar months immediately preceding any reduction discloses that the estimated Wastewater System Net Revenues resulting from the proposed reduced rate schedule would have been sufficient to meet the Rate Covenant in Paragraph B of this Section during the applicable 12-month period.

E. Efficient Operation. The City will maintain the Wastewater System in efficient operating condition and make such improvements, extensions, enlargements, repairs and

betterments to the Wastewater System as may be necessary or advisable for its economical and efficient operation at all times and to supply reasonable public and private demands for Wastewater System services within the Service Area.

F. Records. So long as the Obligations remain Outstanding, proper books of record and account will be kept by the City, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the Wastewater System. However, pursuant to Section 6-14-10(E) NMSA 1978, records with regard to the ownership or pledge of the Obligations are not subject to inspection or copying.

G. Right to Inspect. Owners of the Obligations, or their duly authorized agents, shall have the right to inspect at all reasonable times all records, accounts and data relating to the Wastewater System, the Pledged Environmental Gross Receipts Tax Revenues and the Net Revenues.

H. Audits. Within 180 days following the close of each Fiscal Year, the City will cause an audit of the books and accounts of the Wastewater System to be made by an Independent Accountant. Each audit of the Wastewater System shall include those matters determined to be proper by the Independent Accountant.

I. Billing Procedure. Bills for wastewater or wastewater services or facilities, or any combination, furnished by or through the Wastewater System shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by City ordinance. If permitted by law, if a bill is not paid within the period of time required by City ordinance, wastewater services shall be discontinued as required by City ordinance, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection.

J. Charges and Liens Upon Wastewater System. The City will pay when due from Wastewater System Gross Revenues or other legally available funds all taxes and assessments or other municipal or governmental charges, lawfully levied or assessed upon the Wastewater System and will observe and comply with all valid requirements of any municipal or governmental authority relating to the Wastewater System. The City will not create or permit any lien or charge upon the Wastewater System or the Wastewater System Gross Revenues except as permitted by this Agreement, or it will make adequate provisions to satisfy and discharge within 60 days after the same accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon the Wastewater System or the Wastewater System Gross Revenues. However, the City shall not be required to pay or cause to be discharged, or make provision for any tax, assessment, lien or charge before the time when payment becomes due or so long as the validity thereof is contested in good faith by appropriate legal proceedings and there is no adverse affect on owners of the Obligations.

K. Insurance. Subject, in each case, to the condition that insurance is obtainable at reasonable rates and upon reasonable terms and conditions, in its operation of the Wastewater System, the City will procure and maintain or cause to be procured and maintained commercial insurance or provide Qualified Self Insurance with respect to the facilities constituting the Wastewater System and public liability insurance in the form of commercial insurance or Qualified Self Insurance and, in each case, in such amounts and against such risks as are, in the judgment of the City, prudent and reasonable taking into account. but not being controlled by, the amounts and types of insurance or self-insured programs provided by municipalities which operate systems such as the Wastewater System. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a fund, company or association

in which the City may have a material interest and of which the City may have control, either singly or with others. Each plan of Qualified Self Insurance shall be established in accordance with law, shall provide that reserves be established or insurance acquired in amounts adequate to provide coverage which the City determines to be reasonable to protect against risks assumed under the Qualified Self Insurance plan, including any potential retained liability in the event of the termination of such plan of Qualified Self Insurance. In the event of property loss or damage to the Wastewater System, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged and thereafter, any remainder may be used to redeem Parity Wastewater System Obligations or be treated as Wastewater System Gross Revenues and used in the manner provided in Section 3.

L. Competing Wastewater System. Unless contrary to any provision of, or required by, applicable law, as long as the Obligations are outstanding, the City will not grant any franchise or license to a competing wastewater utility system, or permit any person, association, firm or corporation to sell similar wastewater utility services or facilities to any consumer, public or private, within the Service Area of the Wastewater System; provided, however, that nothing shall prevent the City from annexing land into its boundaries solely due to the fact that there is a competing utility system or person, association, firm or corporation selling similar wastewater utility services or facilities within or for the land to be annexed. Notwithstanding the foregoing, permits granted to individual homeowners shall not violate this section if the City is in compliance with the Rate Covenant.

M. Alienating Wastewater System. While this Agreement and any Superior Obligations, Parity Obligations or Subordinate Obligations are Outstanding, the City shall not, except as permitted below, transfer, sell or otherwise dispose of the Wastewater System. For

purposes of this Section, any transfer of an asset over which the City retains or regains substantial control shall not, for so long as the City has such control, be deemed a disposition of the Wastewater System.

The City may transfer, sell or otherwise dispose of the Wastewater System only if such transfer, sale or disposition complies with one or more of the following provisions:

(a) The property being disposed of is inadequate, obsolete or worn out; or

(b) The property proposed to be disposed of and all other property of the Wastewater System disposed of during the 12-month period ending on the day of such transfer (but excluding property disposed of under (a) above), will not, in the aggregate, constitute a Significant Portion of the Wastewater System determined as described below and the proceeds are deposited into the Wastewater Fund to be used as described below; or

(c) The City receives fair market value for the property, the proceeds are deposited into the Wastewater Fund to be used as described below and, prior to the disposition of such property, there is delivered a certificate of a Consultant to the effect that notwithstanding such disposition, but taking into account the use of such proceeds in accordance with the expectations of the City as evidenced by a certificate of an Authorized Officer, the Consultant estimates that the City will be in compliance with during each of the five Fiscal Years immediately following such disposition.

For purposes of this Section, the term "Significant Portion" of the Wastewater System means property of the Wastewater System which, if such property had been disposed of by the City at the beginning of the Fiscal Year which includes the month of commencement of the 12-month period referred to in (b) above would have resulted in a reduction in Wastewater System

Net Revenues for such Fiscal Year of more than 4 % when the actual Wastewater System Net Revenues for such Fiscal Year are decreased by the revenues directly attributable to such property of the Wastewater System and increased by the expenses of the City directly attributable to such property of the Wastewater System.

Proceeds of the disposition of assets under (b) or (c) above shall be deposited into the Wastewater Fund and used, within a reasonable period of time, not to exceed three years, to (i) provide additional revenue-producing properties to the Wastewater System, (ii) redeem Parity Wastewater System Obligations or (iii) create an escrow fund pledged to pay all or a part of the Obligations and thereby cause such Obligations to be deemed to be paid as provided in the ordinance or ordinances authorizing the issuance of the Obligations.

No such disposition shall be permitted which would cause the City to be in default of any other covenant contained in this Agreement.

N. Extending Interest Payments. To prevent any accumulation of claims for interest after maturity, except as permitted by this Agreement or Related Documents, the City will not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on the Obligations. If the time for payment of interest is extended contrary to the provisions of this Section, the installments of interest extended shall not be entitled, in case of an event of default under this Agreement, or Related Documents, to the benefit or security of this Agreement, or Related Documents until the prior payment in full of the principal of and interest on all other Obligations then outstanding.

O. Competent Management. The City shall employ experienced and competent personnel to manage the Wastewater System.

P. Performing Duties. The City will faithfully and punctually perform all duties with respect to the Wastewater System required by State and City laws, including, but not limited to, making and collecting reasonable and sufficient rates and charges for services rendered or furnished by the Wastewater System as required by this Section and the proper segregation and application of the Wastewater System Gross Revenues.

Q. City's Existence. The City will maintain its corporate identity and existence as long as the Obligations remain outstanding unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any Owner. However, the City may annex or de-annex land if the City complies with other applicable covenants in this Agreement.

R. [RESERVED]

S. Other Liens. Other than the Outstanding Superior Obligations and Parity Obligations, including this Agreement, there are no liens or encumbrances of any nature whatsoever on or against the Pledged Revenues.

T. Duty With Respect to Pledged Revenues. If the statutes or any ordinance which materially affects the Pledged Revenues, or any part of the ordinances, shall ever be held to be invalid or unenforceable, it shall be the duty of the City to immediately take any legally permissable action necessary to produce sufficient Pledged Revenues to comply with the contracted obligations of this Agreement, except as provided in paragraph U of this Section.

U. Impairment of Contract. The City agrees that any law or ordinance or resolution of the City in any manner affecting the Pledged Revenues or the Outstanding Obligations, or otherwise appertaining thereto, shall not be repealed or otherwise directly or indirectly modified, in such a manner as to impair adversely any Outstanding Obligations, unless

such Outstanding Obligations have been discharged in full or provision has been fully made therefor, or unless the consent of the required percentage of the registered owners of the Outstanding Obligations is obtained pursuant to the ordinance authorizing the issuance of such Obligations.

V. Limitation on Consolidation of Wastewater System. The City shall not, for so long as any of the Outstanding Obligations are Outstanding, consolidate the Wastewater System with the City's water system.

INTERIM PROMISSORY NOTE
($114,000,000 Wastewater Utility System Loan)

To the New Mexico Environment Department (NMED)
Clean Water State Revolving Loan Fund (CWSRF)
-also known as-
Wastewater Facility Construction Loan Program

FOR VALUE RECEIVED, the **City of Santa Fe** (Borrower) promises to pay the NMED at:

New Mexico Environment Department
Construction Programs Bureau
1190 S. St. Francis Drive
P.O. Box 5469
Santa Fe, New Mexico 87505

or by electronic funds transfer (EFT)

or at such other place as NMED may hereafter designate in writing, the principal amount of

One Hundred Fourteen Million Dollars ($114,000,000)

or so much of that amount as has been paid by NMED to the Borrower pursuant to the terms of the Interim Loan Agreement (Agreement) or any amendment to the Agreement for CWSRF 140 A-F between NMED and the Borrower plus **0.01% project interest annually** from the date of each respective disbursement annually until paid in full. Effective on the execution of the Agreement.

The principal plus interest due, if applicable, and payable on this Note shall be payable as follows: Principal loaned, and the subsequent interest shall be due and paid according to the Final Promissory Note as described.

Repayment Rate and Schedule

Annual principal and interest payments will commence not later than one year after completion of the project and shall be paid in annual installments due on the anniversary of the first annual installment. A Final Promissory Note will be processed and executed, and the Agreement will be amended and executed as a Final Loan Agreement to reflect the final amount loaned by NMED to Borrower. The principal amount of the Final Promissory Note and Agreement, as amended, will be an amount equal to that loaned and paid to Borrower under this Note.

Source of Repayment

The Borrower is giving a security interest by dedicating the Pledged Funds. The Pledged Funds are defined as **Net Wastewater Utility System Revenue**. Except as stated in the Ordinance, the Pledged Funds have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Pledged Funds on the date of the Ordinance. The loan will be payable and collectible solely from the Pledged Funds.

Assignment

No assignment by NMED of the right to receive payments under this Note shall affect the Borrower's obligations or rights other than to make payments either by EFT or at the address designated by NMED to the Borrower in writing.

Collection and Default

At the option of NMED, any amount paid by NMED to collect amounts due under this Note or to preserve or protect NMED's rights under the Agreement shall become a part of, and bear interest at the interest rate as set forth in the previous REPAYMENT RATE AND SCHEDULE section above and shall become immediately due and payable by the Borrower to NMED upon demand by NMED. Events of default and remedies upon an event of default as described in the Agreement in COVENANTS are incorporated herein by reference.

Prepayment

The Borrower may prepay all or any part of the principal of this Note without penalty. Extra payments, shall, after payment of interest due, be applied to the reduction of principal. After any prepayment of principal, the Borrower shall continue to pay the amounts listed in the Agreement and Final Promissory Note until the entire principal and interest are paid in full.

Authority

This Note is authorized by the Wastewater Facility Construction Loan Act, NMSA 1978, § 74-6A-1 et seq., as amended, the New Mexico Water Quality Control Commission Regulations, 20.7.5 NMAC, the New Mexico Environment Department Regulations, 20.7.6 – 20.7.7 NMAC, and the Borrower's Ordinance No. 2024-6.

This Note shall not constitute indebtedness or debt within the meaning of any constitutional, charter or statutory provision, or limitation, nor shall this Note be considered or held to be a general obligation of the Borrower. The obligations of the Borrower under the Agreement and Note are payable and collectible solely out of the Pledged Funds as defined in the Agreement, and NMED or any other holders of the Agreement or Note may not look to any general or municipal fund for the payment of the principal or interest on the Agreement or Note.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and effective as of the date listed below by the Borrower.

_____
Borrower's Authorized Signature

_____
Borrower's Printed Name

_____
Title

_____
Date

State of _

County of

Signed or attested before me on _____ by _____ ,
Date Witness for City of Sant Fe

_____
Notarial Officer Signature

[Official Stamp] Title of Office:

Clean Water State Revolving Loan Fund Interim Loan Agreement

City of Santa Fe

$17,000,000 Water Utility System Loan Agreement

(Made pursuant to Funding Package consisting of $151,000,000 total Loan at 0.01%

The following items are included as part of the funding agreement:

- **Financial Pages and NMED Project Conditions, General Conditions, and Covenants**
- **Covenants and Provisions Applicable to Net Water Utility System Revenue Debt Obligations (Attachment 1)**
- **CWSRF Federal Requirements:**

Applies to All Projects:

- **Super Crosscutters**
- **Generally Accepted Government Accounting Practices**
- **Useful Life**
- **Office of the Inspector General Poster**
- **Cost and Effectiveness**

Applies only to Treatment Works Projects (UV Disinfection and Sewer Line Repair):

- **American Iron and Steel**
- **State Environmental Review Process**
- **Davis-Bacon Wage Rates**
- **Fiscal Sustainability Plan**

NEW MEXICO
ENVIRONMENT DEPARTMENT

INTERIM LOAN AGREEMENT
NEW MEXICO ENVIRONMENT DEPARTMENT
CONSTRUCTION PROGRAMS BUREAU
CLEAN WATER STATE REVOLVING LOAN FUND (CWSRF) –also known as-
WASTEWATER FACILITY CONSTRUCTION LOAN PROGRAM

_Loan Number: CWSRF 140 A-F

Name of Borrower: **City of Santa Fe**

$17,000,000 Water Utility Loan Agreement (made as part of total CWSRF Loan package of $151,000,000, Interest Rate: 0.01%

This Interim Loan Agreement (Agreement) between the New Mexico Environment Department (NMED) of the State of New Mexico and the City of Santa Fe (Borrower) becomes effective on the date signed by the NMED. Borrower has enacted Ordinance No. 2024-6 approved on August 14, 2024 (as amended by Ordinance No. 2025-___ approved on _____, 2025), hereinafter referred to as the "Ordinance") which authorizes execution of this Agreement, authorizes the Borrower to accept loan funds from NMED, and irrevocably pledges Net Water Utility System Revenues (Pledged Funds) for the repayment of the loan.

Listed below are agency contacts.

Borrower's Name and Address: City of Santa Fe 200 Lincoln Avenue PO Box 909 Santa Fe, New Mexico 87504-0909	**NMED:** New Mexico Environment Department Clean Water State Revolving Fund Program P.O. Box 5469 Santa Fe, New Mexico 87505 NMENV-cpbinfo@state.nm.us
Borrower's Contact Information: _____, Public Utilities Director (505) 955-4650	**NMED Contact Information:** Stephanie DuBois, Project Engineer (505) 538-5539, stephanie.dubois@env.nm.gov Maria Molina, Program Administrator (505) 670-3876, maria.molina2@env.nm.gov

Jonna Leigh Stack, Project Administrator 505-955-4206 jlstack@santafenm.gov	Rhonda Holderman, Financial Manager, Loans and Grants (505) 363-9396, Rhonda.holderman@env.nm.gov
Emily K. Oster, Finance Director	
(505) 955-6171	
5ekoster@santafenm.gov	

Incorporated as part of this Agreement as though fully set forth in this Agreement is the following:

Borrower's Loan Ordinance
Interim Promissory Note
Proposed Loan Amortization Schedule
Project Description Form

I. Project Description:

A. Project under this agreement includes:

- Nichols Dam Outlet Works Rehabilitation.

B. Borrower agrees that it will implement, in all respects, the project outlined in the attached Project Description, and made a part of this Agreement.

C. Borrower agrees to make no change in the Project Description without first submitting a written request to NMED and obtaining NMED's written approval of the required change, and if necessary, an amended loan agreement.

II. Loan Amount:

NMED agrees to loan funds to the Borrower to pay for approved costs to plan, acquire and construct the Project, in an amount not to exceed: $17,000,000 (Water Utility System Loan Amount) at the **interest rate of 0.01% annually** upon the terms and conditions set forth in this Agreement and the Interim Promissory Note.

Provided the Borrower complies with the Construction Conditions and the CWSRF Requirements below, the loan amount will be available for a period of three **(3) years** from the date of this Agreement. Subject to completion of the Project within the three (3) year construction period, Borrower shall determine the construction schedule for the project in its reasonable discretion.

III. Funding:

A. Project interest accrues during construction at **0.01%** annually from the

date of each disbursement from NMED to the Borrower up to the date the final disbursement request is approved by NMED. The interest accrued during construction, if applicable, shall be payable as follows:

1. Project Interest shall be due and payable in one lump sum within two weeks of receiving notice of final loan amount from the NMED, or

2. Project Interest shall be added to the loan amount disbursed and shall become part of the principal due during the term of the Final Promissory Note.

B. FINANCE COSTS

Finance costs, if applicable, will be determined upon the issuance of the Final Loan Agreement and will be based on the final amount loaned, accrued project interest and agreed upon repayment terms.

C. REPAYMENT TERMS

Repayment terms will be determined upon issuance of the Final Loan Agreement. Any loan term must be substantiated by the Borrower, and the loan term shall not exceed the average economic life of the project as a whole.. Repayment will begin not less than one year after project completion. Repayment need not be based on level payments of principal and interest, but may instead be structured to address Borrower's needs with respect to cash flow, anticipated utility rate increases, and other relevant factors, in Borrower's discretion; provided, that structured repayments shall not be interest-only, but shall include annual amortization of a portion of unpaid principal and payment of interest.

The Borrower may pay off ("Prepay") all or any part of the loan at any time following delivery of written notice to NMED of Borrower's election to Prepay, specifying the principal amount to be prepaid, together with interest thereon accrued to the date of prepayment.

D. ACTUAL LOAN AMOUNT DISBURSED

(i) If the loan amount disbursed is less than the amount in Section III. Loan Amount, then the Final Loan Agreement and the Final Promissory Note shall reflect actual loan disbursements. If the Borrower does not pay the Project Interest within two weeks of receiving notice of final loan amount from the

NMED, then the accrued Project Interest shall be incorporated into the principal amount in the Final Promissory Note.

(ii) At the Borrower's request, NMED will reallocate unused loan amounts for other eligible projects of the Borrower, and will either amend an existing loan agreement and note ("Loan Documentation") or enter into new Loan Documentation with Borrower reflecting the reallocation of unused proceeds for other eligible purposes. Borrower shall be responsible for determining that funds pledged for repayment in connection with such Loan Documentation is from an appropriate source.

(iii) Within the State and Federal requirements applicable to the Loan Agreement, NMED intends to utilize amounts repaid by Borrower hereunder to provide additional loans to Borrower for eligible purposes, at Borrower's request.

E. SECURITY – PLEDGED FUNDS

The Borrower is giving a security interest by dedicating the Pledged Funds. The Pledged Funds are defined as Net Revenues of the Water Utility System owned and operated by the City of Santa Fe, as more specifically defined in the Covenants and Provisions Applicable to Net Water Utility System Revenue Debt Obligations attached hereto as Attachment 1 ("Attachment 1"), which are hereby incorporated in this Agreement.

Except as stated in Attachment 1, the Pledged Funds have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Pledged Funds on the date of the Ordinance. The loan will be payable and collectible solely from the Pledged Funds.

F. DEFAULT AND LATE CHARGES

Failure by the Borrower to pay the annual payments as set forth in the Final Loan Agreement and Final Promissory Note shall constitute an event of default. Late charges may be assessed at the discretion of NMED. See VI. COVENANTS, Sections H and I for default procedures.

G. DEMAND FEATURE

This Agreement has a demand feature in the event of default and the total principal and interest due shall be paid on demand. See VI. COVENANTS Sections H and I for default procedures.

H. NO DEBT SERVICE RESERVE FUND OR MATCHING REQUIREMENTS.

Borrower shall not be required to establish a debt service reserve fund or to provide matching funds pursuant to this Agreement. In lieu of debt service reserve fund requirements, Borrower shall comply with the Rate Covenant herein. See VI, COVENANTS Section E.

IV. Project Conditions:

A. After the date of this Agreement, but prior to NMED's approval of the Contract Documents, for any phase, the Borrower's attorney shall provide an opinion satisfactory to NMED that the Borrower is an incorporated entity.

B. Upon execution of this Agreement, the Borrower shall follow the procedures listed below unless waived in writing by NMED. Disbursement by NMED may be withheld if any of these procedures are not followed by the Borrower.

1. If these Funds are to be used for engineering and/or other professional services, the Borrower shall submit documentation regarding the hiring process to be used and the (RFP), to NMED for review and approval prior to selecting engineering and/or other professional services. An RFP for engineering services and/or other professional services must comply with the New Mexico Procurement Code. NMSA 1978, Sections 13-1-21 et seq. Engineering Services must be chosen based on a qualification-based request for proposal process regardless of the anticipated cost. A minimum of three proposers must be interviewed as part of the selection process. The Borrower is also required to contact the Professional Technical Advisory Board (PTAB) for assistance in the preparation of the RFP package. (PTAB email ptab@acecnm.org.)

2. If these Funds are to be used for engineering and/or other

professional services, the Borrower shall submit a draft form of any engineering agreement and/or other professional services contract, or a letter certifying that the Borrower's staff will perform the engineering and/or other professional services, to NMED for review and approval prior to executing the agreement/contract or using Borrower's staff. The preferred engineering agreement format is the "Publicly Funded Project" form prepared by NMED and posted on the website at https://www.env.nm.gov/construction-programs/cpb-forms-and-documents-2/.

3. If these Funds are to be used for engineering design or for construction, the Borrower shall submit all plans, specifications, and any addenda for this project to NMED for review and approval before the project is advertised for construction bids. Plans, specifications, and addenda shall be prepared by a registered New Mexico Professional Engineer.

4. Following NMED approval of the proposed award, the Borrower shall submit to NMED for review the notice of the award and the minutes of meeting in which award was made, the notice of a pre-construction conference, a copy of the executed construction contract documents (including payment and performance bonds), and the notice to contractor to proceed. The selected contractor will be required to post a performance and payment bond in accordance with requirements of NMSA 1978, Section 13-4-18.

5. The selected contractor will be required to submit a construction schedule to the Borrower at the pre-construction conference.

6. The Borrower will submit all modifications to plans and contract by change orders to the NMED project manager promptly for review and approval prior to implementation of such modification or change. NMED's written decision approving or disapproving the modification shall be rendered promptly to the Borrower. If immediate action is needed, a verbal notification of NMED's decision will be made, followed by written notification.

7. The Borrower shall provide a full-time construction inspector during construction of the project. The Borrower shall submit the inspector's résumé and inspection reports to NMED for review and approval.

8. NMED shall have the right to examine all installations comprising the project, including materials delivered and stored on-site for use on the project. Such examinations will not be considered an inspection for compliance with contract plans.

8. NMED may require proof of deposit and/or proof of payments to contractors and consultants, including the disbursement of funds other than those provided by the Agreement.

9. The Borrower (or the system owner) shall employ properly certified utility operators and shall comply with all provisions of the New Mexico Utility Operators Certification Act, NMSA 1978, Sections 61- 33-1 et seq.

10. With the exception of easements (See Section V.H), when real property is acquired by the Borrower, either through purchase or donation as a part of this project and within the project period, the Borrower will submit documentation of the acquisition to NMED, including a legal description of the property, the date the property will be acquired, evidence of clear title, and an appraisal report prepared by a qualified appraiser who was selected through applicable procurement procedures. These documents must be reviewed and approved by NMED prior to the acquisition of any real property. After real property acquisition, the Borrower will make available to NMED all documents of title pertaining to the acquired property and all easements or rights- of-way necessary for the completion of work under this agreement.

11. If the Funds are to be used for construction of water distribution lines, the existing population served by the project shall be connected to the collection system or distribution system within a reasonable time after project completion. This will be accomplished by adoption and annual review of an Ordinance and user charge system or other legal documents or other official act requiring such connection to the system, to the extent permitted by law.

12. Notwithstanding the other provisions of this Agreement the Borrower shall comply with the Prompt Payment Act, NMSA 1978, Sections 57-28-1 et seq. The Project will not be considered complete until the work as defined in this Agreement has been fully performed, and finally and unconditionally accepted by the Borrower and NMED.

14. If the Funds are to be used for construction, final disbursement will be made after the final inspection has been conducted by NMED and the following items, unless waived by NMED, have been provided to NMED, and have been reviewed and approved by NMED:

    a) Operation and maintenance manuals or a letter from the owner certifying receipt and acceptance of the operation and maintenance manuals.

    b) A final reimbursement request including the final certified construction pay request prepared by the Borrower's project engineer and approved by the Borrower.

    c) A certificate of substantial completion including punch list items.

    d) A letter certifying project acceptance by the Borrower and the Borrower's project engineer stating that work has been satisfactorily completed and the construction contractor has fulfilled all of the obligations required under the contract documents with the Borrower, or if payment and materials performance bonds are "called", an acceptance close-out settlement to the Borrower and contractors will be submitted to NMED for final review and approval.

    e) Certification letter by the Borrower that the Labor Standards Contract Provisions have been met.

    f) Record drawings prepared by the Borrower's project engineer or a letter from the owner certifying receipt and acceptance of the record drawings.

    g) Complete and legally effective releases or waivers (satisfactory to the Borrower) of all liens arising out of the contract documents and the labor services performed and the materials and equipment furnished thereunder. In lieu thereof and as approved by the Borrower, contractor(s) may furnish receipts or releases in full an affidavit of contractor that the releases and receipts include labor, services, materials, and equipment for which a lien could be filed and that all payrolls, material and equipment bills, and other indebtedness connected with the work for which the Borrower or its property might in any way be responsible,

have been paid or otherwise satisfied.

h) A written consent of the surety, if any, to final payment; and

i) Borrower's ledger sheets including all payments made by the Borrower may be requested with the final disbursement request and before the final disbursement request can be processed by NMED.

j) Verification to NMED of FSP and written certification that a FSP is in place.

15. The Borrower must ensure that each procurement contract contain the following term and condition: The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of the contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of the contract which may result in the termination of the contract or other legally available remedies.

16. The Borrower shall require the Contractor of the Project to post a performance and payment bond approved by NMED in the amount of the bid.

17. Bid tabulation and supporting documents (Contract Documents) shall be prepared and furnished to NMED within fifteen (15) days of bid opening. The Borrower shall not proceed with construction of the Project until NMED has approved the Contract Documents.

18. Any change order to the Project construction contract which results in a change to the Project's contract amount, scope of work, or schedule must be approved by NMED.

19. Borrower agrees to implement environmental recommendations that will be supplied by NMED prior to final Plan approval.

20. The Borrower must submit all work related to easements, rights-of-ways, other property rights, and financing provisions associated with the project to NMED for review prior to advertising for construction. The Borrower must certify in writing that this has been done prior to the award of the construction contract. A site certificate addressing the property upon or through which the facility is being constructed and prepared by the

Borrower's attorney is required.

21. The Borrower agrees to obtain a single audit annually from an Independent Professional Auditor.

22. The Borrower shall achieve Project Completion by the end of the loan agreement term. Project Completion means the date the operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

23. If the Borrower is unable to complete the project by the loan termination date, the Borrower must notify NMED at least 30 days prior to the loan termination date, otherwise, NMED may terminate this Agreement or may withhold Funds. If NMED terminates this Agreement, the Borrower shall refund any Funds disbursed to the Borrower by NMED within ninety (90) days of termination.

V. General Conditions:

A. This Agreement is made pursuant to and in accordance with the provisions of the Wastewater Facility Construction Loan Act, NMSA 1978, § 74-6A-1 et seq., as amended, the New Mexico Water Quality Control Commission Regulations,
20.7.5 NMAC, and the New Mexico Environment Department Regulations, 20.7.6 –20.7.7 NMAC.

B. Pursuant to the Ordinance of the Borrower, the Borrower is authorized to enter into this Agreement and the Final Loan Agreement and to execute and deliver an Interim Promissory Note and Final Promissory Note. The terms of the Ordinance and Interim Promissory Note are incorporated as part of this Agreement as though fully set forth in this Agreement.

C. For the purposes of this Agreement, NMED's inspection, review and approval of the Project are only for the purposes of determining compliance with applicable State regulations. NMED approval shall not be interpreted as any warranty or guarantee. Approval of the plans and design of the Project means only that plans are complete. NMED will bring to the Borrower's attention any obvious defects in the Project's design, materials, or workmanship, but all such defects and their correction shall be the responsibility of the Borrower and its contractors. Any questions raised by NMED shall be resolved exclusively by the Borrower and its contractors, who shall remain responsible for the completion and success of the Project.

D. The Borrower warrants, represents and agrees that it, and its contractors, subcontractors, employees, and representatives will comply with all applicable State and Federal laws and regulations, and the requirements set forth in this Agreement or any amendment to the Agreement.

E. If the Borrower seeks additional funding from any other entity for the Project, the Borrower agrees that the Borrower is solely responsible for satisfying any requirements arising as a result of funding from that other entity.

F. The Borrower warrants that the internal financial statements provided to NMED by the Borrower for approval of the loan do not contain false material statements, representations, certifications, or omissions of material fact.

G. The Borrower shall submit all future audited financial reports to the State Auditor as required by the State Auditor's Rules.

H. The proceeds of the loan shall be used for the Project and for no other purpose. Unallowable uses of the proceeds of the loan include but are not limited to paying administrative expenses (including applications for funding), costs of Borrower employees, late fees, interest, or penalties. Those costs shall be paid by the Borrower.

I. The parties agree that allowable costs will be limited to those costs that are necessary, reasonable, and related to the efficient achievement of the objectives of this Agreement. The Borrower must justify all expenditures for which it requests reimbursement, according to accepted NMED criteria and procedures. NMED may withhold reimbursement of any item or expenditure and may reclaim improperly documented reimbursement until the Borrower provides sufficient justification. NMED may not disburse any loan funds if the Borrower fails to adhere to the schedule described in Section IV. above.

J. For any phase of the Project which requires National Environmental Policy Act (NEPA) review, NMED shall not disburse any funds for that phase until a NEPA review is completed.

K. The Borrower agrees to abide by all required Equal Employment Opportunity laws, both State and Federal.

L. The Borrower agrees that it will take affirmative action to ensure that the Project is constructed in compliance with Federal and State occupational health and safety laws and that inspectors authorized by NMED's Occupational Health and Safety Bureau will be given free access to the Project sites.

M. The Borrower agrees to make all fiscal records related to the Project available to NMED, the United States Environmental Protection Agency, the United States General Accounting Office (GAO), and the State Auditor for inspection and audit.

N. The obligations of the Borrower under the Agreement are the special limited obligations of the Borrower as set forth in the Agreement and the Note. The Agreement and the Note shall not constitute indebtedness or debt within the meaning of any constitutional, charter or statutory provision, or limitation, nor shall the Agreement and Note be considered or held to be a general obligation of the Borrower. The obligations of the Borrower under the Agreement and Note are payable and collectible solely out of the Pledged Funds as defined in the Agreement, and NMED or any other holders of the Agreement or Note may not look to any general or municipal fund for the payment due on the Agreement or Note.

O. The Borrower agrees to operate and maintain the Project so that the Project will function properly over the structural and material design life of the Project.

P. The loan will not be used by the Borrower on any project constructed in fulfillment, in whole or in part, of requirements made of a subdivider by the provisions of the Land Subdivision Act, NMSA 1978, §§ 47-5-1 to 47-5-8.

Q. The Borrower understands and agrees that the Project is subject to Federal and State regulations and acceptance of any disbursement pursuant to the Agreement constitutes an agreement by the Borrower that the amounts have been properly accounted for and expended in accordance with applicable Federal and State regulations.

R. The Borrower agrees to maintain separate Project accounts in accordance with Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB) including standards relating to the reporting of infrastructure assets. If requested by NMED, the Borrower shall conduct an audit of the financial records pertaining to the Project.

VI. Covenants:

Attachment 1 (Covenants and Provisions Applicable to Net Water Utility System Revenue Debt Obligations ("System Covenants")) is hereby incorporated hereinbelow and shall be controlling in the event of inconsistency between the System Covenants and the following covenants, but only to the extent of such inconsistency.

A. (i) Disbursements (payment of loan funds) to the Borrower made pursuant to the Agreement will be available on and after the date of the execution of the Agreement and Note if the Borrower is compliant with the Conditions and Covenants of the Agreement. Disbursements will be made only for actual costs incurred by the Borrower to plan, design, construct or acquire the Project, or any phase thereof. The Borrower shall request disbursements on forms acceptable to NMED on at least a quarterly basis and such requests shall be prepared by and certified by the Borrower. All disbursements to the Borrower will be made in accordance with applicable Federal and State regulations. Eligible planning, design and associated pre-building costs that are within the scope of the project and were incurred prior to signing the Agreement are payable under the Agreement and shall be submitted for reimbursement immediately upon execution of the Agreement. Interim disbursements will be made as the work progresses. Interim disbursement requests shall be submitted by the Borrower within ninety (90) days after the liability of the Borrower was incurred as evidenced by the date of the invoice for which disbursement is being requested. NMED shall use commercially reasonable efforts to disburse loan proceeds, or to notify Borrower that the disbursement request is incomplete or otherwise unsatisfactory, within 10 business days after receiving a disbursement request from Borrower.

(ii) NMED will compensate Borrower for the actual and reasonable costs of employing personnel (which may be a current employee of Borrower) tasked with assisting Borrower in preparing, documenting and submitting disbursement requests, and working with NMED to resolve issues relating thereto ("Disbursement Request Administration"). Reimbursement of the Borrower by NMED for the Borrower's actual and reasonable costs of employing such personnel is conditioned on the Borrower providing reasonably detailed, contemporaneous time records describing the activities of such personnel in connection with Disbursement Request Administration as part of each disbursement request. [Such costs [will] [will not] be paid from loan proceeds.]

B. The Borrower shall not sell, lease, or transfer any property related to the Project except as permitted by the Ordinance, as amended, and supplemented.

C. The Borrower shall not obligate the Pledged Funds for this Agreement except as set forth in the Ordinance as adopted at the time of execution of the Agreement.

D. The Borrower hereby irrevocably agrees that the Borrower has fixed and collected, or will fix and collect, adequate rates, fees, and other charges for the use of the System (as defined in the Ordinance) which will be sufficient to satisfy the Agreement and the Note.

E. If the pledged funds shall prove insufficient to produce the Repayments set forth herein and in the Interim and Final Promissory Note, the Borrower agrees to adjust and increase such rates, fees, and charges in the manner authorized by law to provide funds sufficient to produce the repayment of the loan set forth herein and in the Interim and Final Promissory Note, as set forth in the Rate Covenant in the System Covenants.

F. The Borrower shall not provide any free services of the Water Utility System. The Borrower shall, to the full extent permitted by law, collect payment for water services provided. The Borrower shall notify NMED should delinquent users impact their ability to service this agreement as defined.

G. The Borrower shall maintain property, liability and fidelity insurance coverage on the Project as required by NMED and provide written proof of such insurance coverage to NMED.

H. The following shall constitute an event of default under the Agreement:

1. The failure by the Borrower to pay the annual payment on the repayment of the loan set forth in the Agreement and Interim and Final Promissory Notes when due and payable either at maturity or otherwise or

2. Default by the Borrower in any of its covenants or conditions set forth under the Agreement (other than a default set forth in the previous clause of this section) for 60 days after NMED has given written notice to the Borrower specifying such default and requiring the same to be remedied.

I. Upon occurrence of an event of default:

1. The entire unpaid amount of the Agreement and Interim and Final Promissory Note may be declared by the NMED to be immediately due and payable, and the Borrower shall pay the amounts due under the Agreement and Interim and Final Promissory Note from the Pledged Funds, either immediately or in the manner required by NMED in its declaration.

2. If the event of default is under clause one of Subsection H, NMED is authorized to set water user rates in the area of the Borrower's jurisdiction in order to provide sufficient money for repayment, on scheduled due dates of the loan and proper operation and maintenance of the Water Utility System. Funds sufficient to provide for repayment, on scheduled due dates of the loan and proper operation and maintenance of the System shall be identified through a rate- setting analysis that will ensure enough revenue to cover yearly expenses and emergencies, a reserve fund for non-major capital items and equitable pay for staff. The rate-setting analysis may be reviewed and changed on a yearly basis if necessary.

3. If default by the Borrower is of covenants or conditions required under the Agreement, the Borrower may be required to refund the amount of the loan disbursed to the Borrower from NMED.

4. NMED shall have no further obligation to make disbursements to the Borrower under the Agreement and may pursue any other appropriate remedies.

J. NMED retains the right to seek enforcement of the terms of the Agreement. If the parties cannot reach agreement regarding disputes as to the terms and conditions of this Agreement, such disputes are to be resolved in the district court of Santa Fe County. The parties agree that the district court for

Santa Fe County shall have exclusive jurisdiction over the parties and the subject matter of this Agreement and waive the right to challenge such jurisdiction.

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

L. This Agreement shall be binding upon and inure to the benefit of the Borrower, NMED and their respective successors. The rights and obligations under the Agreement and Interim and Final Promissory Note may not be assigned by the Borrower.

M. No change shall be made to the Agreement or the Interim and Final Promissory Note except in writing signed by NMED and the Borrower.

CWSRF FEDERAL REQUIREMENTS: APPLIES TO ALL PROJECTS

New Mexico CWSRF Loan Agreement Provision LA 1: Anti-Discrimination Laws (Super Cross- Cutters)

All recipients of CWSRF financial assistance are required to comply with the following provisions:

Civil Rights Laws (i.e., Super Crosscutters)

- Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1251
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794
- The Age Discrimination Act of 1975, 42 U.S.C. § 6102

These four laws prohibit discrimination in the provision of services or benefits, on the basis of race, color, national origin, sex, disability, or age, in programs or activities receiving federal financial assistance. All recipients of CWSRF financial assistance must agree, and required their contractors and subcontractors to agree, not to discriminate on the basis of race, color, national origin, sex, disability or age.

New Mexico CWSRF Loan Agreement Provision LA2: Generally Accepted Governmental Accounting

All recipients of CWSRF financial assistance (Assistance Recipients) are required to comply with the following provisions:

Section 602(b)(9) of the Federal Water Pollution Control Act (FWPCA) states:

(9) the State will require as a condition of making a loan or providing other assistance, as described in section 603(d) of this Act, from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards, including standards relating to the reporting of infrastructure assets

The most recent applicable standard is GASB Statement No. 34 (GASB 34), issued in June 1999, which details governmental reporting requirements including standards for reporting of infrastructure assets. Further details on the requirements, as well as the full text of GASB 34, can be obtained through the GASB. CWSRF assistance recipients that follow GAAP standards other than GASB 34 are still required to maintain project accounts according to GAAP and apply GAAP standards for reporting on infrastructure assets.

Pursuant to Section 602(b)(9) of the FWPCA, all CWSRF Assistance Recipients must agree to maintain project accounts according to Generally Accepted Accounting Principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB), using standards relating to the reporting of infrastructure assets.

New Mexico CWSRF Loan Agreement Provision LA13: Useful Life Requirement

All recipients of CWSRF financial assistance are required to comply with the following provisions:

Section 603(d)(1)(A) of the Clean Water Act (as amended) restricts the terms of CWSRF loans to the lesser of 30 years or the useful life of the project. All applicants for CWSRF financial assistance agree to provide an engineer's estimate of the useful life of project components to be funded by the CWSRF.

New Mexico CWSRF Loan Agreement Provision LA14 Office of Inspector General Posting

The US Environmental Protection Agency requires that contracts exceeding $1,000,0000 prominently display the Office of the Inspector General Hotline poster within contractor work areas and facilities where work is performed.

Posters may be obtained at: https://www.epa.gov/office-inspector-general/poster-report-fraud-waste-and-abuse-epa-oig-hotlineThe parties have executed this Agreement on the dates set forth by their respective names.

LA 18 Cost and Effectiveness—Government Requirement

Under the Federal Water Pollution Control Act (FWPCA) section 602(b)(13), the CWSRF program requires that all assistance recipients certify that they have conducted the studies and evaluations described in 602(b) (13 (A) and (B) herein referred to collectively as a cost and effectiveness analysis. The statute requires that a cost and effectiveness analysis involve, at a minimum:

- the study and evaluation of the cost and effectiveness of the processes, materials, techniques, and technologies for conducting the proposed project or activity for which assistance is sought under this title; and
- the selection, to the maximum extent practicable, of a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, considering—
    - the cost of constructing the project or activity.
    - the cost of operating and maintaining the project or activity over the life of the project or activity; and
    - the cost of replacing the project or activity.

CWSRF FEDERAL REQUIREMENTS: APPLIES ONLY TO TREATMENT WORKS PROJECTS

(UV Disinfection and Sewer Line Repair):

AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

The Federal Water Pollution Control Act (P.L. 92-500) Section 608 requires Clean Water State Revolving Loan Fund (CWSRF) and Drinking Water State Revolving Loan Fund (DWSRF) assistance recipients to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system or treatment works.

The Act states:

> SEC. 608. REQUIREMENTS.
> *(a)* IN GENERAL.—Funds made available from a State water pollution control revolving fund established under this title may not be used for a project for the construction, alteration, maintenance, or repair of treatment works unless all of the iron and steel products used in the project are produced in the United States.
> *(b)* DEFINITION OF IRON AND STEEL PRODUCTS.—In this section, the term `iron and steel products' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, construction materials.
> *(c)* APPLICATION.—Subsection (a) shall not apply in any case or category of cases in which the Administrator finds that—
>
> (1) applying subsection (a) would be inconsistent with the public interest.
> (2) iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
> (3) inclusion of iron and steel products produced in the United States will increase the cost of the overall project by more than 25 percent.
>
> *(d)* WAIVER.—If the Administrator receives a request for a waiver under this section, the Administrator shall make available to the public, on an informal basis, a copy of the request and information available to the Administrator concerning the request and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet site of the Environmental Protection Agency.
> *(e)* INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner consistent with United States obligations under international agreements.
> *(f)* MANAGEMENT AND OVERSIGHT.—The Administrator may retain up to 0.25 percent of the funds appropriated for this title for management and oversight of the requirements of this section.
> *(g)* EFFECTIVE DATE.—This section does not apply with respect to a project if a State agency approves the engineering plans and specifications for the project, in that

agency's capacity to approve such plans and specifications prior to a project requesting bids, prior to the date of enactment of the Water Resources Reform and Development Act of 2014.

AMERICAN IRON AND STEEL (AIS) GUIDANCE

The following guidance excerpt has been provided from EPA:

(Complete guidance may be downloaded from: https://www.epa.gov/cwsrf/state-revolving-fund- american-iron-and-steel-ais- requirement)

Covered Iron and Steel Products

11) What is an iron or steel product?

For purposes of the CWSRF and DWSRF projects that must comply with the AIS requirement, an iron or steel product is one of the following made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:
Lined or unlined pipes or fittings;
Manhole Covers.
Municipal Castings (defined in more detail below),
Hydrants.
Tanks;
Flanges.
Pipe clamps and restraints; Valves.
Structural steel (defined in more detail below);
Reinforced precast concrete; and
Construction materials (defined in more detail below).

12) What does the term 'primarily iron or steel' mean?

'Primarily iron or steel' places constraints on the list of products above. For one of the listed products to be considered subject to the AIS requirements, it must be made of greater than 50% iron or steel, measured by cost. The cost should be based on the material costs.

13) Can you provide an example of how to perform a cost determination?

For example, the iron portion of a fire hydrant would likely be the bonnet, body and shoe, and the cost then would include the pouring and casting to create those components. The other material costs would include non-iron and steel internal workings of the fire hydrant (i.e., stem coupling, valve, seals, etc.).
However, the assembly of the internal workings into the hydrant body would not be included in this cost calculation. If one of the listed products is not made primarily of iron or steel, United States (US) provenance is not required. An exception to this definition is reinforced precast concrete, which is addressed in a later question.

14) If a product is composed of more than 50% iron or steel, but is not listed in the above list of items, must the item be produced in the US? Alternatively, must the iron or steel in such a product

be produced in the US?

The answer to both question is no. Only items on the above list must be produced in the US. Additionally, the iron or steel in a non-listed item can be sourced from outside the US.

15) What is the definition of steel?

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements. Metallic elements such as chromium, nickel, molybdenum, manganese, and silicon may be added during the melting of steel for the purpose of enhancing properties such as corrosion resistance, hardness, or strength. The definition of steel covers carbon steel, alloy steel, stainless steel, tool steel and other specialty steels.

16) What does 'produced in the United States' mean?

Production in the United States of the iron or steel products used in the project requires that all manufacturing processes, including application of coatings, must take place in the United States, with the exception of metallurgical processes involving refinement of steel additives. All manufacturing processes includes processes such as melting, refining, forming, rolling, drawing, finishing, fabricating and coating. Further, if a domestic iron and steel product is taken out of the US for any part of the manufacturing process, it becomes foreign source material. However, raw materials such as iron ore, limestone and iron and steel scrap are not covered by the AIS requirement, and the material(s), if any, being applied as a coating are similarly not covered. Non-iron or steel components of an iron and steel product may come from non-US sources. For example, for products such as valves and hydrants, the individual non-iron and steel components do not have to be of domestic origin.

17) Are the raw materials used in the production of iron or steel required to come from US sources?

No. Raw materials, such as iron ore, limestone, scrap iron, and scrap steel, can come from non-US sources.

18) If an above listed item is primarily made of iron or steel, but is only at the construction site temporarily, must such an item be produced in the US?

No. Only the above listed products made primarily of iron or steel, permanently incorporated into the project must be produced in the US. For example, trench boxes, scaffolding or equipment, which are removed from the project site upon completion of the project, are not required to be made of U.S. Iron or Steel.

19) What is the definition of 'municipal castings?

Municipal castings are cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches;
Ballast Screen.
Benches (Iron or Steel);
Bollards.
Cast Bases.
Cast Iron Hinged Hatches, Square and
Rectangular; Cast Iron Riser Rings.
Catch Basin Inlet;
Cleanout/Monument Boxes;
Construction Covers and Frames;
Curb and Corner Guards.
Curb Openings.
Detectable Warning Plates;
Downspout Shoes (Boot,
Inlet).
Drainage Grates, Frames and Curb Inlets;
Inlets.
Junction
Boxes.
Lampposts.
Manhole Covers, Rings and Frames, Risers,
Meter Boxes.
Service Boxes.
Steel Hinged Hatches, Square and Rectangular;
Steel Riser Rings.
Trash
receptacles;
Tree Grates.
Tree Guards;
Trench Grates;
and
Valve Boxes, Covers and Risers.

20) What is 'structural steel'?

Structural steel is rolled flanged shapes, having at least one dimension of their cross-section three inches or greater, which are used in the construction of bridges, buildings, ships, railroad rolling stock, and for numerous other constructional purposes. Such shapes are designated as wide-flange shapes, standard I-beams, channels, angles, tees and zees. Other shapes include H-piles, sheet piling, tie plates, cross ties, and those for other special purposes.

21) What is a 'construction material' for purposes of the AIS requirement?

Construction materials are those articles, materials, or supplies made primarily of iron and steel, that are permanently incorporated into the project, not including mechanical and/or electrical

components, equipment and systems. Some of these products may overlap with what is also considered "structural steel". This includes, but is not limited to, the following products: wire rod, bar, angles, concrete reinforcing bar, wire, wire cloth, wire rope and cables, tubing, framing, joists, trusses, fasteners (i.e., nuts and bolts), welding rods, decking, grating, railings, stairs, access ramps, fire escapes, ladders, wall panels, dome structures, roofing, ductwork, surface drains, cable hanging systems, manhole steps, fencing and fence tubing, guardrails, doors, and stationary screens.

22) What is not considered a 'construction material' for purposes of the AIS requirement?

Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system. The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials: pumps, motors, gear reducers, drives (including variable frequency drives (VFDs)), electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators), mixers, gates, motorized screens (such as traveling screens), blowers/aeration equipment, compressors, meters, sensors, controls and switches, supervisory control and data acquisition (SCADA), membrane bioreactor systems, membrane filtration systems, filters, clarifiers and clarifier mechanisms, rakes, grinders, disinfection systems, presses (including belt presses), conveyors, cranes, HVAC (excluding ductwork), water heaters,
heat exchangers, generators, cabinetry and housings (such as electrical boxes/enclosures), lighting fixtures, electrical conduit, emergency life systems, metal office furniture, shelving, laboratory equipment, analytical instrumentation, and dewatering equipment.

23) If the iron or steel is produced in the US, may other steps in the manufacturing process take place outside of the US, such as assembly?

No. Production in the US of the iron or steel used in a listed product requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives.

24) What processes must occur in the US to be compliant with the AIS requirement for reinforced precast concrete?

While reinforced precast concrete may not be at least 50% iron or steel, in this particular case, the reinforcing bar and wire must be produced in the US and meet the same standards as for any other iron or steel product. Additionally, the casting of the concrete product must take place in the US. The cement and other raw materials used in concrete production are not required to be of domestic origin.

If the reinforced concrete is cast at the construction site, the reinforcing bar and wire are considered to be a construction material and must be produced in the US.

<u>Certification and Compliance</u>

NMED Form #C4 "American Iron and Steel (AIS) Certification" must be executed and included in the bid package. Failure to complete the certification will result the bid being returned. The contractor will

supply to the loan recipient manufacturers' certifications for each iron and steel item documenting/asserting that all manufacturing processes occurred in the United States. Such certifications will be submitted with shop drawings.

Waiver Process

The statute permits EPA to issue waivers for a case or category of cases where EPA finds (1) that applying these requirements would be inconsistent with the public interest; (2) iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or (3) inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

In order to implement the AIS requirements, EPA has developed an approach to allow for effective and efficient implementation of the waiver process to allow projects to proceed in a timely manner. The framework is described in the guidance document found at: https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-waiver-process

Approved and denied waivers may be reviewed at: https://www.epa.gov/cwsrf/american-iron-and- steel-requirement-approved-project-waivers and https://www.epa.gov/cwsrf/american-iron-and- steel-requirement-withdrawn-or-denied-waivers

De Minimis Materials Waiver

The EPA has granted a nationwide waiver of the AIS requirements of the Consolidated Appropriations Act under the authority of Section 436(b)(1) (public interest waiver) for de minimis incidental components of eligible infrastructure projects. For many of these incidental components, the country of manufacture and the availability of alternatives is not always readily or reasonably identifiable prior to procurement in the normal course of business; for other incidental components, the country of manufacture may be known but the miscellaneous character in conjunction with the low cost, individually and (in total) as typically procured in bulk, mark them as properly incidental. Examples of incidental components could include small washers, screws, fasteners (i.e., nuts and bolts), miscellaneous wire, corner bead, ancillary tube, etc. Examples of items that are clearly not incidental include significant process fittings (i.e., tees, elbows, flanges, and brackets), distribution system fittings and valves, force main valves, pipes for sewer collection and/or water distribution, treatment and storage tanks, large structural support structures, etc.

Funds used for such de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total cost of the total materials used in and incorporated into a project; the cost of an individual item may not exceed 1 percent of the total cost of the total materials used in and incorporated into a project. Contractors who wish to use this waiver should determine the costs of all items installed or supplied for the project. The contractor must retain relevant documentation (i.e., invoices) for each of these items in their project files and must summarize the

items in monthly draw requests to the owner: the total cost of all materials, the total cost of "incidental" materials, and the calculations by which they determined the percentage of incidental products installed or supplied for the project. None of the products specifically listed as "Covered Iron and Steel Products" are incidental, nor are the products identified in detail in the technical specifications.

New Mexico CWSRF Loan Agreement Provision LA9 Environmental Review Requirements

The Federal Water Pollution Control Act section 511(c)(1) applies the National Environmental Policy Act (NEPA) to assistance for the construction of treatment works. All CWSRF-funded projects involving the construction of treatment works, regardless of the source of the funding, must undergo an environmental review following the procedures in NMED's State Environmental Review Process.

Assistance recipients ("sub-recipients") for CWSRF-funded treatment works projects are required to comply with Section 513 of the Federal Water Pollution Control Act (P.L. 92-500, as amended by the Water Resources Reform and Development Act of 2014) requiring all laborers and mechanics employed by contractors working on treatment works to be paid prevailing wages as determined by the Secretary of Labor. It is considered a Davis-Bacon related Act.

DAVIS-BACON REQUIREMENT (GOVERNMENTAL ENTITIES)

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the Water Resources Reform and Development Act of 2014 (WRRDA), DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with NMED before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor https://beta.sam.gov/ weekly to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(b) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

(c) Sub-recipients shall review all subcontracts subject to DB entered into by prime contractors to verify

that the prime contractor has required its subcontractors to include the applicable wage determinations.

(d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The sub-recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub-recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF - financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or -FY 2014 Water Resource Reform and Development Act, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub-recipients may obtain wage determinations from the U.S. Department of Labor's web site,

www.dol.gov.

(ii)(A) The sub-recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub-recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub-recipient (s) to the State award official. The State award official will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub-recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably

anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(2) Withholding. The sub-recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub-recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub-recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for

this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the sub-recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub-recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work

they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until

an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and sub-recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii)The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of $100,000.

(a) Contract Work Hours and Safety Standards Act. The sub-recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub-recipient**,** upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub-recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub-recipient shall insert in any such contract a clause providing hat the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub-recipient shall periodically interview a sufficient number of employees entitled to DB

prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub-recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub-recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub-recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub-recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The sub-recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub-recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the sub-recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub-recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub-recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The sub-recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub-recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

DAVIS-BACON REQUIREMENT (NON-GOVERNMENTAL ENTITIES)

Under these terms and conditions, the sub-recipient must submit its proposed DB wage determinations to the State recipient for approval prior to including the wage determination in any solicitation, contract task orders, work assignments, or similar instruments to existing contractors.

1. Applicability of the Davis- Bacon (DB) prevailing wage requirements.

Under the FY 2014 Water Resource Reform and Development Act, DB prevailing wage requirements apply to the construction, alteration, and repair of treatment works carried out in whole or in part with assistance made available by a State water pollution control revolving fund. If a sub-recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the sub-recipient must discuss the situation with NMED before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Sub-recipients must obtain proposed wage determinations for specific localities at https://beta.sam.gov/. After the Sub-recipient obtains its proposed wage determination, it must submit the wage determination to the **New Mexico Environment Department Construction Programs Bureau** ((505)-469-3459) for approval prior to inserting the wage determination into a solicitation, contract or issuing task orders, work assignments or similar instruments to existing contractors (ordering instruments unless subsequently directed otherwise by the State recipient Award Official.)

(b) Sub-recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that subcontractors follow the wage determination incorporated into the prime contract.

(i) While the solicitation remains open, the sub-recipient shall monitor https://beta.sam.gov/. on a weekly basis to ensure that the wage determination contained in the solicitation remains current. The sub-recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the sub-recipients may request a finding from the State recipient that there is not a reasonable time to notify interested contractors of the modification of the wage determination. The State recipient will provide a report of its findings to the sub-recipient.

(ii) If the sub-recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless the State recipient, at the request of the sub-recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The sub-recipient shall monitor https://beta.sam.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.

(c) If the sub-recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing contractor (ordering instrument) rather than by publishing a solicitation, the sub-recipient shall insert the appropriate DOL wage determination from https://beta.sam.gov/ into the ordering instrument.

(d) Sub-recipients shall review all subcontracts subject to DB entered into by prime contractors to verify that the prime contractor has required its subcontractors to include the applicable wage determinations.

(e) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a sub-recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the sub-recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the sub-recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the

contract or ordering instrument by change order. The sub-recipient's contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

(a) The Recipient shall insure that the sub-recipient(s) shall insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a treatment work under the CWSRF - or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 or the FY 2014

(b) Water Resource Reform and Development Act -, the following clauses:

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Sub-recipients may obtain wage determinations from the U.S. Department of Labor's web site, www.dol.gov.

(ii)(A) The sub-recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The State award official shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the sub-recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the sub-recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the sub-recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the request, and the local wage determination, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The request shall be sent to the EPA Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(2) Withholding. The sub-recipient(s) shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any

other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the sub-recipient, that is, the entity that receives the sub-grant or loan from the State capitalization grant recipient. Such documentation shall be available on request of the State recipient or EPA. As to each payroll copy received, the sub-recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the sub-recipient(s) for transmission to the State or EPA if requested by EPA, the State, the contractor, or the Wage and Hour Division of the

Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sub-recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer

and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractors registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the

Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii)Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may by appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and Sub-recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. **4. Contract Provision for Contracts in Excess of $100,000.**

(a) Contract Work Hours and Safety Standards Act. The sub-recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The sub-recipient shall upon the request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(c) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Sub-recipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years

from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Sub-recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

(a) The sub-recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(3), all interviews must be conducted in confidence. The sub-recipient must use Standard Form 1445 (SF 1445) or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.

(b) The sub-recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Sub-recipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Sub-recipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence."

(c). The sub-recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The sub- recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable the sub-recipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Sub-recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the sub-recipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d). The sub-recipient shall periodically review contractors and subcontractors use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Sub-recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at http://www.dol.gov/whd/america2.htm.

New Mexico CWSRF Loan Provision LA15 Fiscal Sustainability Plan

	Fiscal Sustainability Plan Requirement	LA15

The 2014 Clean Water Act amendments require recipients of CWRF loans for projects involving a publicly owned treatment works to certify that they have developed and implemented a Fiscal Sustainability Plan (FSP) or another plan that meets minimum requirements, or that they will prepare an FSP. The minimum required elements for an FSP are listed in Section 603(d)(1)(E) of the Clean Water Act. Loan recipients shall develop and implement a FSP that includes the following:

- An inventory of critical assets that are part of the system. Critical assets are those that are necessary for sustained system performance.
- An evaluation of the condition and performance of critical assets.
- A plan for maintaining, repairing and replacing critical assets and for funding those activities.
- An evaluation and implementation plan for water and energy conservation.

The FSP requirement applies to all publicly owned treatment works construction or design/ construction projects funded in-part or in-full of State Revolving Fund (SRF) loans. The FSP must cover the entire project for which SRF funding is provided.

At the completion of the project, the loan recipient can:

Certify that a Fiscal Sustainability Plan (FSP) has been developed and implemented that meets the minimum required elements listed above. The FSP certification statement must be submitted before a final loan agreement is executed. The FSP will be available for NMED review during a site visit or inspection.

Agree to develop and implement a Fiscal Sustainability Plan (FSP) that will meet the minimum required elements listed above. The certification statement must be submitted before a final loan agreement is executed. The FSP must be completed prior to final disbursement. The FSP will be available for NMED review during a site visit or inspection.

By executing this Agreement, the undersigned represents authorization to act on behalf of the Recipient.

BY:

_____

Signature of duly authorized Recipient
Official City of Santa Fe

_____

Print Name

_____

Title

_____

Date

Issued and administered by:

New Mexico Environment Department
Wastewater Facility Construction Loan Program
Clean Water State Revolving Loan Fund

BY: _____

Constructions Programs Bureau, Bureau Chief
Signed pursuant to February 19, 2024, Secretary of Environment Delegation Order

ATTACHMENT 1

COVENANTS AND PROVISIONS APPLICABLE
TO NET WATER UTILTY SYSTEM OBLIGATIONS ('SYSTEM OBLIGATIONS")

Bracketed section references refer to the corresponding sections in Ordinance No. 2016-19, adopted by the Governing Body of the City of Santa Fe on May 1, 2016 (the "Master Ordinance").

Section 1. Definitions.

"Agreement Debt Service Fund" means the fund established and maintained by the City for the deposit of Pledged Revenues in amounts sufficient to make timely payments of the Debt Service Requirements of this Agreement.

"Authorized Officer" means the City's Mayor, Manager, Finance Director and Treasurer, or other officer or employee of the City when designated by a certificate signed by the Mayor of the City from time to time.

"Finance Director" or his or her successor in function, provided that for purposes hereof, the designation of any successor in title by the City Manager, if given in writing, shall be conclusive.

"Consulting Engineer" means any registered or licensed professional engineer or firm of engineers or Independent Accountant, entitled to practice and practicing as such under the laws of the State, retained and compensated by the City but not in the regular employ of the City; but, as to any construction drawings and specifications prepared for the System by City employees under the supervision of the City Engineer, this term may include the City Engineer.

"Debt Service Requirements" for any given period, means the sum of: (a) the amount required to pay the interest becoming due on the applicable System Bonds during that period, or

to make reimbursements for payments of interest; and (b) the amount required to pay the principal or Accreted Value becoming due on the applicable System Bonds during that period, whether at maturity, the Accreted Term Date or upon mandatory sinking fund redemption dates, or to make reimbursements for payments of that principal or Accreted Value. For purposes of calculating the maximum annual Debt Service Requirements, the following assumptions shall be used:

(a) in determining the principal due in each year, payment shall (unless a different subsection of this definition applies for purposes of determining principal maturities or amortization) be assumed to be made on System Bonds in accordance with any amortization schedule established by Ordinance, the Supplemental Ordinance or Related Documents setting forth the terms of such System Bonds, including, as a principal payment, the Accreted Value of any Capital Appreciation Bonds maturing or scheduled for redemption in such year; in determining the interest due in each year, interest payable at a fixed rate shall (except to the extent subsection (b), (c), (d), (e) or (f) of this definition applies) be assumed to be made at such fixed rate and on the required payment dates;

(b) if all or any portion or portions of an Outstanding series of System Bonds constitute Balloon Indebtedness, or if all or any portion or portions of a series of System Bonds then proposed to be issued would constitute Balloon Indebtedness, then, for purposes of determining Debt Service Requirements, each maturity which constitutes Balloon Indebtedness shall, unless provision (c) of this definition then applies to such maturity, be treated as if it were to be amortized over a term of 20 years commencing in the year the stated maturity of such Balloon Indebtedness occurs and with substantially level annual debt service payments; the interest rate used for such computation shall be that rate determined by a Consultant to be a reasonable market rate for 20-year fixed-rate

System Bonds issued under the Master Ordinance on the date of such calculation, with no credit enhancement and taking into consideration whether such System Bonds bear interest which is or is not excluded from gross income for federal income tax purposes; with respect to any series of System Bonds only a portion of which constitutes Balloon Indebtedness, the remaining portion shall be treated as described in (a) above or such other provision of this definition as shall be applicable and, with respect to any series or that portion of a series which constitutes Balloon Indebtedness, all payments of principal and interest becoming due prior to the year of the stated maturity of the Balloon Indebtedness shall be treated as described in (a) above or such other provision of this definition as shall be applicable;

(c) any maturity which constitutes Balloon Indebtedness as described in provision (b) of this definition and for which the stated maturity date occurs within 12 months from the date such calculation is made, shall be assumed to become due and payable on the stated maturity date and provision (b) above shall not apply thereto unless there is delivered to the entity making the calculation a certificate of an Authorized Officer stating that the City intends to refinance such maturity and stating the probable terms of such refinancing and that the debt capacity of the City is sufficient to successfully complete such refinancing; upon the receipt of such certificate, such Balloon Indebtedness shall be assumed to be refinanced in accordance with the probable terms set out in such certificate and such terms shall be used for purposes of calculating Debt Service Requirements, provided that such assumption shall not result in an amortization period longer than or an interest rate lower than that which would be assumed under provision (b) above;

(d) if any of the Outstanding series of System Bonds constitute Tender Indebtedness or if System Bonds then proposed to be issued would constitute Tender Indebtedness, then, for purposes of determining Debt Service Requirements, Tender Indebtedness shall be treated as if the principal amount of such System Bonds were to be amortized over a term of 25 years commencing in the year in which such series is first subject to tender and with substantially level annual debt service payments; the interest rate used for such computation shall be that rate determined by a Consultant to be a reasonable market rate for 25-year fixed-rate System Bonds issued under the Master Ordinance on the date of such calculation, with no credit enhancement and taking into consideration whether such System Bonds bear interest which is or is not excluded from gross income for federal income tax purposes; with respect to all principal and interest payments becoming due prior to the year in which such Tender Indebtedness is first subject to tender such payments shall be treated as described in (a) above unless the interest during that period is subject to fluctuation, in which case the interest becoming due prior to such first tender date shall be determined as provided in (e) or (f) below, as appropriate;

(e) if any Outstanding System Bonds constitute Variable Rate Bonds (except to the extent subsection (b) or (c) relating to Balloon Indebtedness or (d) relating to Tender Indebtedness applies), the interest rate on such System Bonds and the interest rate for funding any Reserve Requirement for such Variable Rate Bonds shall be assumed to be the lesser of the 30-year Revenue Bond Index (published by The Bond Buyer no more than two weeks prior to date of sale), as certified by the City's financial advisor, the Purchaser of the System Bonds or other investment banker, as designated by the City from time to time or the maximum allowable rate permitted under Section 6.03(b)(i) of the Master

Ordinance. The prospective computations of interest payable on Variable Rate Bonds relating to the issuance of additional Parity Bonds required by Section 5 [Article XXIV] shall be as described therein. The prospective computations of interest payable on Variable Rate Bonds required by the Rate Covenant shall be made on the lesser of the maximum short-term rate prevailing in the preceding twelve months or the maximum allowable rate permitted under Section 6.03(b)(i) of the Master Ordinance;

(f) in any computation relating to the issuance of additional System Bonds or the Rate Covenant, there shall be deducted from the computation of the Debt Service Requirements amounts and investments (unless funded by Net Revenues during the applicable period) which are irrevocably committed to make designated payments on System Bonds during the applicable period, including, without limitation, money on deposit in a Debt Service Account for a series of System Bonds, amounts representing capitalized interest for a series of System Bonds and amounts on deposit in an escrow account irrevocably committed to make designated payments on System Bonds during the applicable period;

(g) interest or principal being paid for reimbursements of Debt Service Requirements made pursuant to a Credit Facility, if such obligations rank on parity with the obligation to pay System Bonds, or if a System Bond is a Bank Bond on the date of computation, shall be considered in the computation of Debt Service Requirements; and

(h) should the City enter into an interest rate swap contract or its equivalent with respect to all or a portion of any series of System Bonds, the amount of interest required to be paid with respect to that series shall be the interest rate paid by the City under its interest rate swap contract, so as to properly reflect the actual savings of the swap.

Any termination or similar fees which may become payable by the City pursuant to such swap contract or its equivalent shall not be considered in the computation of Debt Service Requirements. Such swap contract or its equivalent shall be approved by the New Mexico Board of Finance or any other governmental entity if required by State law.

"Gross Revenues" means all income and revenues directly or indirectly derived by the City from the operation and use of the System, or any part of the System, and includes, without limitation, all revenues received by the City, or any municipal corporation or agency succeeding to the rights of the City, from the System and from the sale and use of water or water facilities furnished to the inhabitants in the Service Area. Such term also includes:

(a) All income derived from the investment of any money in the Acquisition Fund, Income Fund, Debt Service Fund, Reserve Fund and Rate Stabilization Fund and from surplus Net Revenues;

(b) Money released from the Rebate Fund to the City;

(c) Money released from the Rate Stabilization Fund to the extent that the amount released is used to pay Operation and Maintenance Expenses or Debt Service Requirements on System Bonds in the year released;

(d) Property insurance proceeds which are not necessary to restore or replace the property lost or damaged and the proceeds of the sale or other disposition of any part of the System; and

(e) Such other amounts that may be designated as Gross Revenues in a Supplemental Ordinance.

Gross Revenues do not include:

(a) any money received as (i) grants or gifts from the United States of America, the State or other sources or (ii) the proceeds of any charge or tax intended as a replacement therefor or other capital contributions from any source which are restricted as to use;

(b) gross receipts taxes, other taxes and/or fees collected by the City and remitted to other governmental agencies; and

(c) condemnation proceeds or the proceeds of any insurance policy, except for (d) above and any insurance proceeds derived in respect of loss of use or business interruption.

"Historic Test Period" means any period of 12 consecutive months out of the 18 calendar months next preceding the delivery of additional Parity Bonds pursuant to Section 24.02.

"Income Fund" means the "City of Santa Fe Water Utility System Gross Income Fund" which is authorized to be continued in Section 2 hereof [Article XVII] .

"Independent Accountant" means (i) the State Auditor and any accountant working under the supervision and control of the State Auditor, and (ii) any certified public accountant, registered accountant or firm of accountants duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the City who (a) is, in fact, independent and not under the domination of the City, (b) does not have any substantial interest, direct or indirect, with the City, and (c) is not connected with the City as an officer or employee of the City, but who may be regularly retained to make annual or similar audits of the books or records of the City.

"Master Ordinance" means Ordinance No. 2016-19, amending and restating Ordinance No. 2006-47, and as amended or supplemented from time to time in accordance with its terms.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation does

not provide a rating for a series of System Bonds, "Moody's" shall be deemed to refer to any other nationally recognized securities rating organization rating that series of System Bonds.

"NMSA" means New Mexico Statutes Annotated, 1978 Compilation, as amended and supplemented.

"Net Revenues" or "Pledged Revenues" means Gross Revenues after deducting Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all reasonable and necessary current expenses of the System, for any particular Fiscal Year or period to which such term is applicable, paid or accrued, related to operating, maintaining and repairing the System, including, without limiting the generality of the foregoing:

(a) legal and overhead expenses of the various City departments directly related and reasonably allocable to the administration of the System;

(b) insurance premiums for the System, including, without limitation, premiums for property insurance, public liability insurance and workmen's compensation insurance, whether or not self-funded;

(c) premiums, expenses and other costs (other than required reimbursements of insurance proceeds and other amounts advanced to pay Debt Service Requirements on System Bonds) for Credit Facilities;

(d) Expenses other than Expenses paid from the proceeds of System Bonds;

(e) the costs of audits of the books and accounts of the System;

(f) amounts required to be deposited in the Rebate Fund;

(g) salaries, administrative expenses, labor costs, surety bonds and the cost of water, materials and supplies used for or in connection with the current operation of the System; and

(h) any fees required to be paid under any operation, maintenance and/or management agreement with respect to the System.

Operation and Maintenance Expenses do not include any allowance for depreciation, payments in lieu of taxes, franchise fees payable or other transfers to the City's general fund, liabilities incurred by the City as a result of its negligence or other misconduct in the operation of the System, any charges for the accumulation of reserves for capital replacements or any Operation and Maintenance Expenses payable from moneys other than Gross Revenues.

"Obligations" means bonds, notes or any other instrument which evidences a borrowing or other obligation of the City, including Qualified Exchange Agreements, secured by Pledged Revenues, issued or incurred for any purpose permitted by the Act or the Exchange Act, as amended from time to time.

"Outstanding Obligations" means, collectively, Outstanding Superior Obligations and Outstanding Subordinate Obligations.

"Outstanding Subordinate Obligations" or "Outstanding Parity Subordinate Obligations" means Obligations with a lien on Net Revenues subordinate to the lien thereon of Outstanding Superior Obligations, and on parity with the lien thereon of this Agreement, and include (1) New Mexico Finance Authority Drinking Water State Revolving Loan Fund Loan Agreement dated May 16, 2008 in an original principal amount of $15,150,000, as amended by First Amendment dated June 10, 2016 (the "2008 NMFA Loan"); (2) New Mexico Finance Authority Drinking Water State Revolving Loan Fund Loan and Subsidy Agreement dated May 3, 2013 in an original principal amount of $5,050,000, as amended by First Amendment dated June 10, 2016 (the "2013 NMFA Loan"), (3) this Agreement, and (4) any other Obligations issued from time to time with a lien on Net Revenues on parity with the lien thereon of this Agreement.

"Outstanding Superior Obligations" or "Parity Bonds" means the Series 2016 Bonds and other System Obligations issued with a lien on Net Revenues on parity with the lien thereon of the Series 2016 Bonds.

"Outstanding Super Subordinate Obligations" means the 2007 Water Trust Board Loan Agreement maturing in 2027, the 2009 Water Trust Board Loan maturing in 2029, the 2010 Water Trust Board Loan WTB-170 maturing in 2030, the 2011 Water Trust Board Loan WTB-202 maturing in 2031, and the 2011 Water Trust Board Loan WTB-203 maturing in 2031.

"Pledged Revenues" means Net Revenues.

"Rate Covenant" means the covenant in Section 26.03(b) relating to charging rates for use of the System to pay Debt Service Requirements.

"Rate Stabilization Fund" means the Rate Stabilization Fund for System Bonds established in Article XVII of the Master Ordinance and continued in Section 2(h) hereof.

"Rebate Fund" means the Rebate Fund for System Bonds established in Article XVII of the Master Ordinance and continued in Section 2(f) hereof.

"Related Documents" means, in connection with Outstanding Obligations, the Pricing Certificate, the Bond Purchase Agreement, the Continuing Disclosure Undertaking, the Preliminary Official Statement, the Official Statement, and any other document or agreement containing an obligation of the City as may be required in connection with the issuance of the Obligations.

"Replacement Fund" means the Water System Replacement Fund established in Article XVII of the Master Ordinance and continued in Section 2(g) hereof and the applicable section of other ordinances in which Outstanding Obligations were authorized.

"Subordinated Bonds" means all bonds and other obligations of the City hereafter issued with a lien on the Net Revenues subordinate to the lien of Parity Bonds on the Net Revenues.

"Supplemental Ordinance" means, except with respect to the Series 2016 Bonds which are authorized and issued pursuant to the terms of the Master Ordinance, an ordinance and all resolutions, amendments and supplements relating thereto of the Council adopted prior to the initial issuance and delivery of each series of System Bonds, authorizing the issuance of a series of System Bonds, the sale and administration thereof and approving specific terms with respect to that series of System Bonds.

"System" means the municipally owned public utility designated as the City's water utility system consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City through purchase, condemnation, construction or otherwise, including all expansions, extensions, enlargements and improvements of or to the water utility system, and used in connection therewith or relating thereto, and any other related activity or enterprise of the City designated by the Council as part of the water utility system, whether situated within or without the limits of the City.

"System Bonds" means the Series 2016 Bonds, additional Parity Bonds, Subordinated Bonds and other similar obligations payable solely or primarily from Net Revenues which may from time to time be issued pursuant to the Master Ordinance.

"2025 NMED Acquisition Account" means the account so-named and established in Section 2(b) hereof.

"2025 NMED Debt Service Account" means the account so-named and established in Section 2(c) hereof.

"2025 NMED Interest Account" means account so-named and established in Section 2(c) hereof.

"2025 NMED Loan" means the Water State Revolving Fund loan made by NMED to the City in a maximum principal amount of $17,000,000, as initially evidenced by this Agreement and Interim Note.

"2025 NMED Principal Account" means account so-named and established in Section 2(c) hereof.

Section 2. Funds and Accounts.

(a) [Section 17.01] Income Fund. The City shall continue the Income Fund as a separate, distinct and segregated fund. As long as any System Bonds are Outstanding, all Gross Revenues shall continue to be set aside and credited to the Income Fund.

(b) [Section 17.02] Acquisition Fund. The Acquisition Fund established pursuant to Ordinance as a separate and distinct fund of the City to be maintained and controlled by the City or its designee is hereby continued. The City hereby establishes the 2025 NMED Acquisition Account.

(c) [Section 17.03] Debt Service Fund. The City shall continue the Debt Service Fund as a separate and distinct fund of the City to be maintained and controlled by the City or its designee for the payment of the Debt Service Requirements on Parity Bonds and, if applicable, proceeds of Parity Bonds to be used for the payment of Parity Bonds. The City hereby establishes the 2025 NMED Debt Service Account, the 2025 NMED Interest Account, and the 2025 NMED Principal Account.

(d) [Section 17.04] Reserve Fund. The City shall continue the Reserve Fund as a separate and distinct fund to be maintained and controlled by the City or its designee for the

purposes described in Section 18.03 of Ordinance. The City shall establish a separate Reserve Account in the Reserve Fund for each series of Parity Bonds for which there is a Reserve Requirement. No Reserve Account is established for the 2025 NMED Loan.

(e) [Section 17.06] Subordinate Lien Funds and Accounts. The City may establish separate and distinct funds and accounts to be maintained and controlled by the City or its designee to pay Debt Service Requirements on, and to fund Reserve Accounts for, Subordinated Bonds.

(f) [Section 17.07] Rebate Fund. The City shall continue the Rebate Fund as a special and separate fund to be maintained and controlled by the City or its designee. The City shall, to the extent that rebate payments may be required to be made pursuant to Section 148(f) of the Code, establish within the Rebate Fund a separate account for each series of System Bonds. No Rebate Account is established for the 2025 NMED Loan.

(g) [Section 17.08] Replacement Fund. The City shall continue the Replacement Fund as a special and separate fund to be maintained and controlled by the City or its designee for the purposes described in Section 3([f])) [Section 18.06].

(h) [Section 17.09] Rate Stabilization Fund. The City shall continue the Rate Stabilization Fund as a special and separate fund to be maintained and controlled by the City or its designee for the purposes described in Section 3([g]) [Section 18.07].

(i) [Section 17.10] Operation and Maintenance Fund. The City shall continue the Operation and Maintenance Fund as a special and separate fund to be maintained and controlled by the City or its designee for the purposes described in Section 3(a) [Section 18.01].

(j) [Section 17.11] Other Funds. Other funds and accounts relating to any series of System Bonds, including escrow funds and accounts if System Bonds are to be refunded,

may be established by the Council or an officer of the City to be controlled and maintained by the City or its designee.

Section 3. [ARTICLE XVIII] Administration of Income Fund and Other Funds and Accounts.

(a) [Section 18.01] Use of Gross Revenues. As long as any System Bonds are Outstanding, all Gross Revenues shall be deposited in the Income Fund and transferred from that Fund to the following funds and accounts or for payment of the following amounts in the order listed:

(1) [18.01(a)] Operation and Maintenance Expenses. A sufficient amount of Gross Revenues shall be set aside each month into the Operation and Maintenance Fund to be used to pay the current Operation and Maintenance Expenses as they become due.

(2) [18.01(b)] Debt Service Accounts for Parity Bonds. Net Revenues shall be transferred to the Debt Service Accounts established for each series of Outstanding Parity Bonds in approximately equal amounts each month to provide an amount sufficient to pay Debt Service Requirements on the Outstanding Parity Bonds as they become due.

(3) [18.01(c)] Reserve Account. Net Revenues shall be transferred to the Reserve Account for each series of Parity Bonds with a Reserve Requirement each month to the extent that deposits are required to be made as a result of any draws on a Reserve Account Insurance Policy or deficiency in the Reserve Requirement for a series of Parity Bonds.

(4) [18.01(d)] Subordinated Bonds. Net Revenues shall be transferred to such funds and accounts as may be established by Supplemental Ordinance with respect to one or more series of Subordinated Bonds and used to pay Debt Service Requirements on Subordinated Bonds and to fund any Reserve Requirement for Subordinated Bonds.

(5) [18.01(e)] Replacement Fund. At the option of the City, Net Revenues may be transferred to the Replacement Fund to be used for the purposes stated in Section 3(a)(6) hereof [Section 18.01(f)].

(6) [18.01(f)] Rate Stabilization Fund. At the option of the City, Net Revenues may be transferred to the Rate Stabilization Fund to be used for the purposes stated in Section 3(a)(7) hereof [Section 18.01(f)].

(7) [18.01((g)] Surplus Net Revenues. Net Revenues shall be retained in the Income Fund or used for any other lawful System purpose including, but not limited to, redeeming or purchasing System Bonds or paying costs and expenses of the City relating to the administration of System Bonds but shall not be transferred to the general fund of the City except for Operation and Maintenance Expenses owed by the System to the City and except for taxes, payments in lieu of taxes, franchise fees, surcharges, assessments and other municipal or governmental charges of the City lawfully levied or assessed upon the System.

(8) [18.01(h)] Accumulation of Revenues. Gross Revenues need not be retained for any use or in any fund or account described in this Section 3(a) [Section 18.01] in excess of the Gross Revenues required for any current use or deposit. For the purposes of this Section 3(a)(8), the term current shall mean the month during which the Net Revenues are being distributed and the immediately following period until the next payment date for Debt Service Requirements on System Bonds.

(b) [Section 18.02] Debt Service Fund. Net Revenues shall be transferred in approximately equal amounts each month to each Debt Service Account sufficient to pay when due the Debt Service Requirements on each series of Parity Bonds.

(1) [18.02(a)] Except as stated in Section 3(d) [Section 18.04] or required by the Supplemental Ordinance relating to a series of Parity Bonds, approximately equal monthly deposits of Net Revenues shall be made to each Debt Service Account beginning six months before each Interest Payment Date for any Outstanding Parity Bonds in order to make the next payment of interest on each such System Bond when due. However, if the first Interest Payment Date for a series of System Bonds is less than seven months after the date of the original issuance of that series of System Bonds, equal monthly deposits of Net Revenues before the first Interest Payment Date shall begin in the first full month following the date of issuance of that series of System Bonds.

(2) [18.02(b)] Except as stated in Section 3(d) [Section 18.04] or as required by the Supplemental Ordinance relating to a series of System Bonds, substantially equal monthly deposits of Net Revenues shall be made to each Debt Service Account beginning 12 months before each principal or Accreted Value payment date for any Outstanding Parity Bonds in order to make the next scheduled payment of principal or Accreted Value on each such System Bond when due whether at maturity on a mandatory sinking fund redemption date or other Accretion Term Date. However, if the first principal payment date for a series of System Bonds is less than thirteen months after the date of the original issuance of that series of System Bonds, equal monthly deposits of Net Revenues before the first principal payment date shall begin in the first full month following the date of issuance of that series of System Bonds. Principal payments include scheduled payments at maturity, by mandatory sinking fund installment or otherwise scheduled payments of principal. Accreted Value payments include scheduled payments on the Accretion Term Date, if any, and as otherwise stated in the applicable Supplemental Ordinance.

If in the month immediately preceding any payment date for the Series 2016 Bonds and any series of Parity Bonds, the City determines that there are not sufficient funds accumulated in a Debt Service Account to pay the amount becoming due on such series of System Bonds on the payment date, the City shall promptly deposit any available Net Revenues in that Debt Service Account in an amount equal to the deficiency. If, prior to any payment date for a series of System Bonds, there has accumulated in the applicable Debt Service Account the entire amount necessary to pay the amount becoming due on those System Bonds on that payment date, no additional Net Revenues need be deposited in that Debt Service Account prior to that payment date. In making the determinations permitted by this Section 3(b)(2), the City may take into account the amount on deposit in any other fund or account or escrow relating to the applicable series of System Bonds irrevocably set aside for the next payment of those System Bonds.

Unless otherwise stated in the Supplemental Ordinance relating to any series of Parity Bonds, amounts deposited in any Debt Service Account shall be applied first to the payment of interest and then to pay or satisfy any sinking fund requirements for the payment of principal.

Except as provided in Section 3(d) [Section 18.04], money in a Debt Service Account shall be used only to pay the Debt Service Requirements on any series of System Bonds for which the Debt Service Account was created. Transfers of amounts equal to the Debt Service Requirements shall be made by the City on a timely basis to the appropriate Fiscal Agent.

Any amount owed by the City to a Bond Insurer for payment of Debt Service Requirements on Insured Bonds of a series of Parity Bonds pursuant to a Bond Insurance Policy shall be paid from Net Revenues with the same priority as other payments of Debt Service Requirements on that series of Parity Bonds.

(c) [Section 18.03]. Reserve Account. As provided in a Supplemental Ordinance, the City may establish a separate Reserve Account in the Reserve Fund for each series of Parity Bonds for which there is a Reserve Requirement. Each Reserve Account may be funded with the proceeds of the applicable series of Parity Bonds, a Reserve Account Insurance Policy, Net Revenues or any combination thereof. A Reserve Account Insurance Policy may be substituted for an equivalent amount of cash in a Reserve Account.

No payments need be made into a Reserve Account, if created, as long as the sum of the money in that Reserve Account and the insurance in effect under any Reserve Account Insurance Policy for the applicable series of Parity Bonds is equal to or greater than the Reserve Requirement for that series of System Bonds and all proceeds of the Reserve Account Insurance Policy used to pay Debt Service Requirement have been repaid. Money in each Reserve Account shall be accumulated and maintained as a continuing reserve to be used, except as provided in this Section 3(c) [18.03] and Section 3(d) [18.04], only to prevent deficiencies in the payment of the principal of, Accreted Value or interest on the series of Parity Bonds for which the Reserve Account was established and to reimburse the Insurer under any applicable Reserve Account Insurance Policy.

If the amount on deposit in the Debt Service Account for a series of Parity Bonds on a payment date for that series of System Bonds and available Net Revenues are not enough to pay the amount becoming due on that series on that date, an amount equal to the deficiency shall be transferred from the applicable Reserve Account to the Debt Service Account for that series of Parity Bonds. If the amount of money on deposit in the Reserve Account is not sufficient to make up the deficiency in the Debt Service Account for that series of Parity Bonds when due, a demand for payment shall be made on any applicable Reserve Account Insurance Policy.

A sum equal to the amount in such other Reserve Account and the proceeds of a Reserve Account Insurance Policy used to pay Debt Service Requirements on a series of Parity Bonds plus interest, if any, owed on amounts advanced pursuant to a Reserve Account Insurance Policy shall be deposited in that Reserve Account from the first Net Revenues received by the City which are not required by Section 3(a) [18.01] to be used for another purpose. The amount received shall first be used to reimburse the Reserve Account Insurer for amounts paid under the Reserve Account Insurance Policy used to pay Debt Service Requirements, second to pay interest or fees owed to a Reserve Account Insurer in connection with amounts advanced pursuant to a Reserve Account Insurance Policy, and third to replace amounts of money drawn from the Reserve Account. Any interest or fees due to a Reserve Account Insurer shall be subordinate to any amounts required to be paid for the benefit of the Owners of the series of Parity Bonds. The priority for the use of money deposited in a Reserve Account for a series of System Bonds may be changed by the Supplemental Ordinance for that Series.

If all proceeds drawn on a Reserve Account Insurance Policy and accrued interest thereon for a series of Parity Bonds have been reimbursed and paid, any amount on deposit in the Reserve Account relating to that series of System Bonds in excess of the Reserve Requirement for that series (taking into consideration the amount of insurance available under any applicable Reserve Account Insurance Policy) may be withdrawn at any time from the Reserve Account and deposited in the Replacement Fund. However, any excess which represents original proceeds of a series of Outstanding System Bonds or interest thereon shall first be used to pay Debt Service Requirements on that series of System Bonds or costs of the Project for which that series of System Bonds was issued.

If a Reserve Account Insurance Policy is used to satisfy the Reserve Requirement for a series of Parity Bonds, the City shall give notice thereof to each rating agency providing a rating for that series of System Bonds.

(d) [Section 18.04] Termination Upon Deposits to Maturity. No payments need be made into the Debt Service Account or Reserve Account for a series of Parity Bonds if the sum of the amounts in that Debt Service Account and Reserve Account (without regard for the coverage available under any Reserve Account Insurance Policy) is not less than the Debt Service Requirements due and to become due on and before the final maturity date of that series of Parity Bonds, both accrued and not accrued, and all proceeds paid under any Reserve Account Insurance Policy and Bond Insurance Policy for that series of Parity Bonds have been reimbursed and all amounts owed to the providers of such policies have been paid in full. Unless otherwise provided in the Supplemental Ordinance applicable to a series of Parity Bonds, the money retained in those two accounts shall be used only to pay the Debt Service Requirements on that series of System Bonds when due except that any money on deposit in any such Debt Service Account which is not necessary to pay such Debt Service Requirements shall be used as surplus Net Revenues and any money on deposit in any such Reserve Account which is not necessary to pay such Debt Service Requirements (other than proceeds of Outstanding Parity Bonds) shall be deposited in the Replacement Fund.

(e) [Section 18.05] Subordinated Bonds. Net Revenues shall be used as required in the 2025 NMED Loan and by the applicable ordinances of the Council authorizing the issuance of other Subordinated Bonds, the payment of Debt Service Requirements thereof and the funding of reserves for Subordinated Bonds. Subordinated Bonds shall have the order of priority

with respect to other Subordinated Bonds as set forth in the Supplemental Ordinances authorizing the issuance of Subordinated Bonds.

(f) [Section 18.06] Replacement Fund. In addition to Net Revenues, the City shall deposit in the Replacement Fund, all money released from a Reserve Account for a series of System Bonds in excess of the Reserve Requirement for that series pursuant to Section 18.03, except for any such excess which is designated for another System purpose by resolution or ordinance of the Council or which is proceeds of Outstanding System Bonds, together with such other moneys from other sources as may be designated by the Council.

While any System Bonds are outstanding, money on deposit in the Replacement Fund shall be used only (i) for replacement costs and capital improvements to the System, (ii) for extraordinary charges relating to the financing or refinancing of the System, and (iii) to purchase or otherwise defease, or provide for the defeasance of, Outstanding System Bonds.

(g) [Section 18.07] Rate Stabilization Fund. Money on deposit in the Rate Stabilization Fund may be withdrawn at any time and used for any purpose for which Gross Revenues may be used. If deposits to the Rate Stabilization Fund are made by the City from sources of legally available moneys other than Gross Revenues, then such deposits shall be excluded from computations required pursuant to Section 5 [Article XXIV] and Section 7(c) [Section 26.03].

(h) [Section 18.08] Pro Rata Deposits. If the amount of Net Revenues available for deposit in the Debt Service Fund is not sufficient to pay the entire amount required to be deposited in the Debt Service Accounts and/or Reserve Accounts, the Net Revenues available shall be deposited first in the Debt Service Accounts and then in the Reserve Accounts, in each case,

pro rata based upon the amount required to be deposited in each Account to the total Net Revenues available for deposit.

Reimbursements owed to a Bond Insurer, Reserve Account Insurer or provider of another Credit Facility for amounts used to pay Debt Service Requirements on a series of System Bonds shall be paid on the same pro rata basis and with the same priority as are amounts to be deposited in the Debt Service Account or Reserve Account, as applicable, with respect to the applicable series of Parity Bonds (or comparable accounts with respect to a series of Subordinated Bonds).

(i) [Section 18.09] Variable Rate Bonds. In making computations required by this Article, interest on Variable Rate Bonds which cannot be determined exactly for a future period shall be deemed to bear the interest rate required by the definition of Debt Service Requirements in the Master Ordinance or the applicable Supplemental Ordinance. To determine the amount required to be on deposit in any Debt Service Account for the payment of interest, computations of the interest rate on Variable Rate Bonds shall be made whenever there is a change in the interest rate on the applicable Variable Rate Bonds except that the computation need not be made more often than once in any month.

Section 4. [ARTICLE XIX] Transfers to Pay Principal of, Premium, if any, and Interest on System Bonds; Payment of Expenses.

(a) [Section 19.01] Transfer to Paying Agent. The City shall transfer legally available funds for the payment of Debt Service Requirements on each series of System Bonds to the applicable Paying Agent on or before the date on which each such payment is due.

(b) [Section 19.02] Expenses. The City or its designee shall pay all Expenses directly to the party entitled thereto from proceeds of a series of System Bonds, from amounts on deposit in the Acquisition Account for a series of System Bonds and from other Net Revenues, as applicable.

Section 5. [Article XXIV] Additional System Bonds.

(a) [Section 24.01] Limitations Upon Issuance of System Bonds. Subject to the limitations of this Section 5 and Section 6 [Article XXIV and Article XXV], nothing in Ordinance or the Ordinance authorizing execution and delivery of the 2025 NMED Loan Agreement shall be construed to prevent the issuance by the City of additional System Bonds.

(b) [Section 24.02] Parity Bonds. Parity Bonds may be issued for the System purposes including, but not limited to, (i) financing the Costs of a Project; or (ii) providing additional funds for deposit into a Reserve Account or the Replacement Fund and paying the costs incident to the issuance of such Parity Bonds or any combination of the foregoing.

The tests required in this Section 5 [Section 24.02] shall be performed without adjustment for payments to or withdrawals from the Rate Stabilization Fund or interest accrued (other than amounts representing capitalized interest) in the Acquisition Fund. For Parity Bonds with a funded Reserve Account (excluding any insurance coverage through a Reserve Fund Insurer), determination of average annual combined Debt Service Requirements or maximum combined annual Debt Service Requirements shall include application of the funds in the Reserve Account to the final debt service payment for the applicable Parity Bonds. Except as permitted herein and by Section 6 [Article XXV], prior to the issuance of additional Parity Bonds, the City shall be current in making all deposits required by Section 2 [Article XVIII] and the following test shall be satisfied:

(1) [24.02(a)] a certificate prepared by an Authorized Officer of the City showing that the Net Revenues for the Historic Test Period were at least equal to 130% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds after the issuance of the proposed Parity Bonds, or

(2) [24.02(b)] a certificate prepared by a Consulting Engineer showing that:

(aa) the Net Revenues for the Historic Test Period were at least equal to 130% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds immediately preceding the issuance of the proposed additional Parity Bonds;

(bb) for each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated Completion Date of the Project being financed, the Consulting Engineer estimates that the City will be in compliance with the Rate Covenant; and

(cc) the estimated Net Revenues for each of the three Fiscal Years immediately following the latest estimated Completion Date for the specified Project to be financed with proceeds of the proposed additional Parity Bonds, as certified to the Consulting Engineer by an Authorized Officer of the City, will be at least equal to 130% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds which will be outstanding immediately after the issuance of the proposed additional Parity Bonds.

For purposes of subsections (2)(aa) and (bb) [24.02(b)(i) and (ii)] above, in estimating Net Revenues, the Consulting Engineer may take into account (1) reasonable Gross Revenues from specified Projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Gross Revenues which have been approved by the City and

will be in effect during the period for which the estimates are provided, and (3) any other increases in Gross Revenues for such period which the Consulting Engineer certifies to be reasonable for purposes of such certificate. With respect to Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Operation and Maintenance Expenses, (ii) Operation and Maintenance Expenses associated with the specified Projects and (iii) such other factors, including inflation and changing operations or policies of the City, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made in determining the estimated Net Revenues and shall also set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consulting Engineer or Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consulting Engineers may rely upon financial statements prepared by the City which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the City shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

(c) [Section 24.03] Subordinate Obligations. Additional Subordinated Bonds in addition to the Outstanding Subordinate Obligations, including the 2025 NMED, Loan may be issued for the System purposes including, but not limited to, (i) financing the Costs of a Project; or (ii) providing additional funds for deposit into a Reserve Account or the Replacement Fund and

paying the costs incident to the issuance of such Subordinated Bonds or any combination of the foregoing.

The tests required in this Section 5(c) [Section 24.03] shall be performed without adjustment for payments to or withdrawals from the Rate Stabilization Fund or interest accrued (other than amounts representing capitalized interest) in the Acquisition Fund. For Subordinate Bonds with a funded Reserve Account (excluding any insurance coverage through a Reserve Fund Insurer), determination of average annual combined Debt Service Requirements or maximum combined annual Debt Service Requirements shall include application of the funds in the Reserve Account to the final debt service payment for the applicable Subordinate Bonds. Except as permitted herein and by Section 6 [Article XXV], prior to the issuance of additional Subordinated Bonds, the City shall be current in making all deposits required by Section 2 [Article XVIII] and the following test shall be satisfied:

(1) a certificate prepared by an Authorized Officer of the City showing that the Net Revenues for the Historic Test Period were at least equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds and Outstanding Subordinated Bonds after the issuance of the proposed Subordinated Bonds, or

(2) a certificate prepared by a Consulting Engineer showing that:

(aa) the Net Revenues for the Historic Test Period were at least equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds and Outstanding Subordinated Bonds immediately preceding the issuance of the proposed additional Subordinated Bonds;

(bb) for each Fiscal Year during the period from the date of delivery of such certificate until the latest estimated Completion Date of the Project being financed, the Consulting Engineer estimates that the City will be in compliance with the Rate Covenant; and

(cc) the estimated Net Revenues for each of the three Fiscal Years immediately following the latest estimated Completion Date for the specified Project to be financed with proceeds of the proposed additional Subordinated Bonds, as certified to the Consulting Engineer by an Authorized Officer of the City, will be at least equal to 120% of the maximum combined annual Debt Service Requirements for all Outstanding Parity Bonds and Outstanding Subordinated Bonds which will be outstanding immediately after the issuance of the proposed additional Subordinated Bonds.

For purposes of subsections Section 5(c)(2)(aa) and (bb) [24.03(b)(i) and (ii)] above, in estimating Net Revenues, the Consulting Engineer may take into account (1) reasonable Gross Revenues from specified Projects expected to become available, (2) any increase in fees, rates, charges, rentals or other sources of Gross Revenues which have been approved by the City and will be in effect during the period for which the estimates are provided, and (3) any other increases in Gross Revenues for such period which the Consulting Engineer certifies to be reasonable for purposes of such certificate. With respect to Operation and Maintenance Expenses, the Consulting Engineer shall use such assumptions as the Consulting Engineer believes to be reasonable, and taking into account, (i) historical Operation and Maintenance Expenses, (ii) Operation and Maintenance Expenses associated with the specified Projects and (iii) such other factors, including inflation and changing operations or policies of the City, as the Consulting Engineer believes to be appropriate. The Consulting Engineer shall include in the certificate or in a separate accompanying report a description of the assumptions used and the calculations made

in determining the estimated Net Revenues and shall also set forth the calculations of the maximum combined annual Debt Service Requirements, which calculations may be based upon information provided by another Consulting Engineer or Consultant.

For purposes of preparing the certificate or certificates described above, the Consulting Engineer or Consulting Engineers may rely upon financial statements prepared by the City which have not been subject to audit by an independent certified public accountant if audited financial statements for the Fiscal Year or period are not available; provided, however, that an Authorized Officer of the City shall certify as to their accuracy and that such financial statements were prepared substantially in accordance with generally accepted accounting principles, subject to year-end adjustments.

(d) [Section 24.04] Certificates. In determining whether additional Parity Bonds may be issued pursuant to Section 5(b) [Section 24.02] or additional Subordinated Bonds may be issued pursuant to Section 5(c) [Section 24.03], a written certificate or opinion of an Authorized Officer of the City or a Consulting Engineer shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver the additional Parity Bonds or additional Subordinated Bonds, respectively.

(e) [Section 24.05] Superior Obligations Prohibited. As long as Parity Bonds are outstanding, the City shall not issue additional System Bonds having a lien on the Net Revenues prior and superior to the lien of Parity Bonds on Net Revenues.

(f) [Section 24.06] Variable Rate Bonds and Tender Indebtedness.

(1) [24.06(a)] In making the computations required by this Section 5 [Article XXIV], to determine if additional System Bonds may be issued, Variable Rate Bonds shall be deemed to bear a rate of interest at the 30-year Revenue Bond Index (published by The

Bond Buyer no more than two weeks prior to the date of sale) certified as described in the definition of Debt Service Requirements.

(2) [24.06(b)] No Variable Rate Bonds or Tender Indebtedness shall be issued unless such series of System Bonds is rated, based upon a Credit Facility or otherwise, at the time of issuance at the minimum level as required for investment by money market funds by at least one of the recognized major rating agencies.

(3) [24.06(c)] If the computations required by this Article are made assuming (i) interest at the maximum interest rate payable to the Bank providing a Credit Facility for the Variable Rate Bonds or Tender Indebtedness and (ii) the accelerated principal repayment schedule due to such Bank, then the acceleration of principal payments and excess interest due to such Bank may be on a parity with the payment of Debt Service Requirements on Parity Bonds; provided, however, if such assumptions are not made in making the computations required by this Article, then any accelerated principal payments due to such Bank or any interest due in excess of the rate on the Variable Rate Bonds or Tender Indebtedness must be subordinated to the payment of Debt Service Requirements on Parity Bonds.

(4) [24.06(d)] Any Bank providing a Credit Facility for liquidity support of Variable Rate Bonds or Tender Indebtedness must be rated at the minimum level as required for investment by money market funds by at least one of the recognized major rating agencies.

(5) [24.06(e)] Any trustee, tender agent or paying agent employed with respect to Variable Rate Bonds or Tender Indebtedness must be a commercial bank with trust powers and any remarketing agent employed with respect to Variable Rate Bonds or Tender Indebtedness must have trust powers if it is responsible for holding monies or receiving bonds.

(6) [24.06(f)] The provisions of this Section 24.06 and the other provisions of the Master Ordinance stating terms and conditions relating to the issuance of Variable Rate Bonds and Tender Indebtedness may be modified at the time of issuance of Variable Rate Bonds or Tender Indebtedness in accordance with the Supplemental Ordinance authorizing issuance thereof.

Section 6. [ARTICLE XXV] Refunding Bonds.

The provisions of Section 6 [Article XXIV of Ordinance] are subject to the following exceptions:

(a) Privilege of Issuing Refunding Obligations. If at any time while System Bonds remain Outstanding, the City desires to refund any Outstanding System Bonds or other obligations payable from Net Revenues, those System Bonds or other obligations, or any part thereof, may be refunded regardless of whether the priority of the lien for the payment of the refunding System Bonds on the Net Revenues is changed (except as provided in Sections 24.04 and in subsections (b), (c), and (d) of this Section 6 [Article XXV].

(b) Limitations Upon Issuance of Refunding Parity Bonds. No refunding bonds or other refunding obligations shall be issued as Parity Bonds unless:

(i) there is delivered a certificate of the Authorized Officer of the City showing that the combined Debt Service Requirements on all Outstanding Parity Bonds for any Fiscal Year after the issuance of refunding Parity Bonds will not exceed the combined Debt Service Requirements for such Fiscal Year on all Outstanding Parity Bonds authorized prior to the issuance of such refunding Parity Bonds by more than ten percent (10%) in any such Fiscal Year, and the City is in current compliance with the Rate Covenant, or

(ii) The refunding Parity Bonds are issued in compliance with Section 5(b) [Section 24.02].

(c) Limitations Upon Issuance of Refunding Subordinated Bonds. No refunding bonds or other refunding obligations shall be issued as Subordinated Bonds unless:

(i) there is delivered a certificate of the Authorized Officer of the City showing that the combined Debt Service Requirements on all Outstanding Subordinated Bonds for any Fiscal Year after the issuance of refunding Subordinated Bonds will not exceed the combined Debt Service Requirements for such Fiscal Year on all Outstanding Subordinated Bonds authorized prior to the issuance of such refunding Subordinated Bonds by more than ten percent (10%) in any such Fiscal Year, and the City is in current compliance with the Rate Covenant, or

(ii) The refunding Subordinated Bonds are issued in compliance with Section 5(c) [Section 24.03].

(d) Limitations Upon Issuance of Any Refunding System Bonds. Any refunding System Bonds shall be issued with such details as the Council may provide by appropriate proceedings but without impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of the series of System Bonds or other obligations payable from Net Revenues to which the refunding was applicable.

Section 7. Protective Covenants. The City hereby covenants and agrees with each and every registered owner of Obligations that:

(a) [Section 26.01] Use of System Bond Proceeds. The City covenants and agrees that it will promptly apply the proceeds of each series of System Bonds to the Project for which they were issued or for the refunding of Outstanding System Bonds, as applicable, and for the other purposes permitted by the Master Ordinance or applicable Supplemental Ordinance.

(b) [Section 26.02]. Payment of System Bonds. The City covenants and agrees that it will promptly pay the Debt Service Requirements on System Bonds at the place, on the dates and in the manner specified in the Master Ordinance, the applicable Supplemental Ordinance, Related Documents and the System Bonds.

(c) [Section 26.03] Rate Covenant.

(1) The City covenants that it will at all times fix rates and collect charges for each class of service rendered by the System, and to, from time to time, amend or adjust such rates so that Gross Revenues of the System shall always be sufficient to provide for the payment of expenses of administration, Operation and Maintenance Expenses, other expenses which may be necessary to preserve the System in good repair and working order, including the necessary reserves therefor and all other payments necessary to meet ongoing legal obligations to be paid at that time; and

(2) The City further covenants that it will at all times fix, charge and collect such rates and charges as shall be required in order that in each Fiscal Year the Net Revenues shall at least equal (i) 130% of the Debt Service Requirements on the Series 2016 Bonds and any additional Parity Bonds Outstanding in such Fiscal Year and (ii) 120% of the Debt Service Requirements on Outstanding Parity Bonds and Subordinated Bonds, including the 2025 NMED Loan, Outstanding in such Fiscal Year.

(3) Failure by the City to comply with the foregoing Rate Covenant in any Fiscal Year will not constitute an event of default under the Master Ordinance so long as the City, within 180 days after the end of any such Fiscal Year, adopts the schedule of rates and charges recommended or approved by a Consulting Engineer which would bring the City into compliance

with the Rate Covenant. The City is also required under the Master Ordinance in each Fiscal Year to complete a review of its financial condition for the purpose of estimating whether the Net Revenues for such Fiscal Year and for the next succeeding Fiscal Year will be sufficient to comply with the Rate Covenant set forth above. If the City determines that the Net Revenues may not be so sufficient, it shall forthwith cause the Consulting Engineer to make a study for the purpose of recommending a schedule of fees, rates and charges for the System which, in the opinion of the Consulting Engineer, will cause sufficient Gross Revenues to be collected in such Fiscal Year to comply with the Rate Covenant set forth above and will cause additional Gross Revenues to be collected in such Fiscal Year sufficient to eliminate the amount of any deficiency at the earliest practicable time within such Fiscal Year. The City shall as promptly as practicable adopt and place in effect the schedule of fees, rates and charges recommended or approved by the Consulting Engineer pursuant to the Master Ordinance. In the alternative of establishing fees, rates and charges necessary to meet the Rate Covenant set forth above, the City may implement reductions in Operation and Maintenance Expenses for the System in an amount sufficient to meet the Rate Covenant.

(d) [Section 26.04] Lien on Lands Serviced by System. State law grants the City a lien upon each lot or parcel of land for the charges imposed for water and sanitary sewer services supplied by the System to the owner of such lot or parcel (except as otherwise provided in Section 3-23-6 NMSA). The City will cause each lien to be perfected in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-5 NMSA. The City will take all necessary steps to enforce the lien against any parcel of property the owner of which is delinquent for more than six months in the payment of charges imposed for the use of the System.

(e) [Section 26.05] Levy of Charges. The City will promptly fix, establish and levy the rates and charges which are required by Section 7(c) [Section 26.03]. Unless contrary to any provision of applicable law, any resolution or ordinance adopted by the Council to fix, establish and levy such rates and charges shall be deemed an administrative or executive matter not subject to the referendum provisions of the Charter or State law. No reduction in any initial or existing rate schedule for the System may be made unless:

(1) the City has fully complied with the requirements of the Rate Covenant contained in Section 7(c) [Section 26.03] for any 12 consecutive months out of the 16 calendar months immediately preceding the reduction of the rate schedule, and

(2) the audit required by Section 7(i) [Section 26.09] or a separate certificate by an Independent Accountant for or relating to any 12 consecutive months out of the 16 calendar months immediately preceding any reduction discloses that the Net Revenues resulting from the proposed reduced rate schedule would have been sufficient to meet the Rate Covenant contained in Section 26.03 during the applicable 12-month period.

(f) [Section 26.06] Efficient Operation. The City will maintain the System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments to the System as may be necessary or advisable for its economical and efficient operation at all times and to supply reasonable public and private demands for System services within the Service Area.

(g) [Section 26.07] Records. So long as System Bonds remain Outstanding, proper books of record and account will be kept by the City, separate from all other records and accounts, showing complete and correct entries of all transactions relating to the System.

However, pursuant to Section 6-14-10(E) NMSA, records with regard to the ownership or pledge of System Bonds are not subject to inspection or copying.

(h) [Section 26.08] Right to Inspect. Owners, or their duly authorized agents, shall have the right to inspect at all reasonable times all records, accounts and data relating to the System.

(i) [Section 26.09] Audits. Within 180 days following the close of each Fiscal Year, the City will cause an audit of the books and accounts of the System to be made by an Independent Accountant. Each audit of the System shall include those matters determined to be proper by the Independent Accountant.

(j) [Section 26.10] Billing Procedure. Bills for water or water facilities furnished by or through the System shall be rendered to customers on a regular basis each month following the month in which the service was rendered and shall be due as required by the applicable ordinance of the City. If permitted by law, if a bill is not paid within the period of time required by such ordinance, water service shall be discontinued as required by such ordinance, and the rates and charges due shall be collected in a lawful manner, including, but not limited to, the cost of disconnection and reconnection.

(k) [Section 26.11] Charges and Liens Upon System. The City will pay when due from Gross Revenues or other legally available funds all taxes and assessments or other municipal or governmental charges, lawfully levied or assessed upon the System and will observe and comply with all valid requirements of any municipal or governmental authority relating to the System. The City will not create or permit any lien or charge upon the System or the Net Revenues except as permitted by the Master Ordinance, or it will make adequate provisions to satisfy and discharge within 60 days after the same accrue, all lawful claims and demands for labor, materials,

supplies or other objects, which, if unpaid, might by law become a lien upon the System or the Net Revenues. However, the City shall not be required to pay or cause to be discharged, or make provision for any tax, assessment, lien or charge before the time when payment becomes due or so long as the validity thereof is contested in good faith by appropriate legal proceedings and there is no adverse effect on Owners.

(l) [Section 26.12] Insurance. Subject, in each case, to the condition that insurance is obtainable at reasonable rates and upon reasonable terms and conditions, in its operation of the System, the City will procure and maintain or cause to be procured and maintained commercial insurance or provide Qualified Self Insurance with respect to the facilities constituting the System and public liability insurance in the form of commercial insurance or Qualified Self Insurance and, in each case, in such amounts and against such risks as are, in the judgment of the Council, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self-insured programs provided by municipalities which operate water systems. "Qualified Self Insurance" means insurance maintained through a program of self insurance or insurance maintained with a fund, company or association in which the City may have a material interest and of which the City may have control, either singly or with others. Each plan of Qualified Self Insurance shall be established in accordance with law, shall provide that reserves be established or insurance acquired in amounts adequate to provide coverage which the City determines to be reasonable to protect against risks assumed under the Qualified Self Insurance plan, including any potential retained liability in the event of the termination of such plan of Qualified Self Insurance. In the event of property loss or damage to the System, insurance proceeds shall be used first for the purpose of restoring or replacing the property lost or damaged

and thereafter, any remainder may be used to redeem System Bonds or be treated as Gross Revenues and used in the manner provided in Article XVIII.

(m) [Section 26.13] Competing System. Unless contrary to any provision of, or required by, applicable law, as long as System Bonds are outstanding, the City will not grant any franchise or license to a competing water utility system, or permit any person, association, firm or corporation to sell water utility services or facilities to any consumer, public or private, within the Service Area of the System; provided, however, that nothing shall prevent the City from annexing land into its boundaries solely due to the fact that there is a competing utility system or person, association, firm or corporation providing such utility services or facilities within or for the land to be annexed.

(n) [Section 26.14] Alienating System. While the System Bonds are Outstanding, the City shall not, except as permitted below, transfer, sell or otherwise dispose of the System. For purposes of this Section, any transfer of an asset over which the City retains or regains substantial control shall not, for so long as the City has such control, be deemed a disposition of the System.

The City may transfer, sell or otherwise dispose of the System only if such transfer, sale or disposition complies with one or more of the following provisions:

(1) The property being disposed of is inadequate, obsolete or worn out; or

(2) The property proposed to be disposed of and all other property of the System disposed of during the 12-month period ending on the day of such transfer (but excluding property disposed of under (a) above), will not, in the aggregate, constitute a Significant

Portion of the System determined as described below and the proceeds are deposited into the Income Fund to be used as described below; or

(3) The City receives fair market value for the property, the proceeds are deposited into the Income Fund to be used as described below and, prior to the disposition of such property, there is delivered to the Fiscal Agent a certificate of a Consultant to the effect that notwithstanding such disposition, but taking into account the use of such proceeds in accordance with the expectations of the City as evidenced by a certificate of an Authorized Officer, the Consultant estimates that the City will be in compliance with the Rate Covenant during each of the five Fiscal Years immediately following such disposition.

For purposes of this Section, the term "Significant Portion" of the System means property of the System which, if such property had been disposed of by the City at the beginning of the Fiscal Year which includes the month of commencement of the 12-month period referred to in (b) above would have resulted in a reduction in Net Revenues for such Fiscal Year of more than 4% when the actual Net Revenues for such Fiscal Year are decreased by the revenues directly attributable to such property of the System and increased by the expenses of the City directly attributable to such property of the System.

Proceeds of the disposition of assets under (b) or (c) above shall be deposited into the Income Fund and used, within a reasonable period of time, not to exceed three years, to (i) provide additional revenue-producing properties to the System, (ii) redeem System Bonds or (iii) create an escrow fund pledged to pay specified System Bonds and thereby cause such System Bonds to be deemed to be paid as provided in Article XXXI of Ordinance.

Properties of the System which were financed with the proceeds of obligations the interest on which is then excluded from gross income for federal income tax purposes shall not be

disposed of, except under the terms of provision (a) above, unless the City has first received a written opinion of Bond Counsel to the effect that such disposition will not cause the interest on such obligations to become includable in gross income for federal income tax purposes.

No such disposition shall be permitted which would cause the City to be in default of any other covenant contained in Ordinance.

(o) [Section 26.15] Extending Interest Payments. To prevent any accumulation of claims for interest after maturity, except as permitted by the Master Ordinance, Supplemental Ordinance or Related Documents, the City will not directly or indirectly extend or assent to the extension of the time for the payment of any claim for interest on System Bonds. If the time for payment of interest is extended contrary to the provisions of this Section, the installments of interest extended shall not be entitled, in case of an event of default under the Master Ordinance, Supplemental Ordinance or Related Documents, to the benefit or security of the Master Ordinance, Supplemental Ordinance or Related Documents until the prior payment in full of the principal of, Accreted Value and interest on all other System Bonds then outstanding.

(p) [Section 26.16] Competent Management. The City shall employ experienced and competent personnel to manage the System.

(q) [Section 26.17] Performing Duties. The City will faithfully and punctually perform all duties with respect to the System required by State and City laws, including, but not limited to, making and collecting reasonable and sufficient rates and charges for services rendered or furnished by the System as required by this Section and the proper segregation and application of the Gross Revenues.

(r) [Section 26.18] Other Liens. Other than as stated in or provided by the Master Ordinance or applicable disclosure document for a series of System Bonds, there are no liens or encumbrances of any nature whatsoever, on or against the System, the Gross Revenues or the Net Revenues.

(s) [Section 26.19] City's Existence. The City will maintain its corporate identity and existence as long as System Bonds remain outstanding unless another political subdivision by operation of law succeeds to the liabilities and rights of the City, without adversely affecting to any substantial degree the privileges and rights of any Owner. However, the City may, annex or de-annex land if the City complies with other applicable covenants contained in the Master Ordinance.

(t) [Section 26.20] Tax Compliance.

(1) With respect to System Bonds to be issued as tax-exempt bonds under Sections 103 and 141 of the Code, the City will restrict the use and investment of the proceeds of the System Bonds and any funds reasonably expected to be used to pay the System Bonds to the extent necessary so that the System Bonds will not constitute arbitrage bonds under Section 148 of the Code. Authorized Officers having responsibility for issuing System Bonds will give appropriate certificates of the City for inclusion in transcripts of proceedings for System Bonds setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the System Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on System Bonds.

(2) With respect to System Bonds to be issued as tax-exempt bonds under Sections 103 and 141 of the Code, the City (i) will take or cause to be taken such actions that may be required of it for the interest on the System Bonds to be and remain excluded from

gross income for federal income tax purposes, and (ii) will not take or permit to be taken any action that would adversely affect such exclusion, and the City will, among other acts of compliance to the extent necessary to assure the exclusion of interest on System Bonds under the Code, (A) apply, or cause to be applied, the proceeds of the System Bonds to the governmental purpose of the borrowing, (B) restrict the yield as necessary on investment property defined in Section 148(b)(2) of the Code acquired with gross proceeds of the System Bonds, (C) make timely rebate payments to the federal government in accordance with Section 148(f) of the Code, the Rebate Regulations (as defined in Article XXVII of Ordinance) and Ordinance, (D) maintain proper books and records and make, or have made, calculations and reports, and (E) refrain from certain uses of System Bond proceeds. Authorized officers are authorized and directed to take action, make or have made calculations and rebate payments, and make or give covenants, representations, reports and certifications as may be required or appropriate to assure the exclusion of interest on the System Bonds from gross income for federal income tax purposes.

(3) The City covenants that it will not make or cause to be made any investment or deposit described or permitted in the Master Ordinance at other than the value permitted for any such investment or deposit under Sections 1.148-0 through 1.148-11 and 1.150-1 and 1.150-2 of the Regulations or any successor provision applicable to the System Bonds.

(4) The provisions of this Section 7(t) [Section 26.20] shall not apply to the System Bonds, or any series of System Bonds, if at any time and to the extent that the City receives an opinion of Bond Counsel that the failure to comply will not adversely affect the exclusion from gross income of interest on the System Bonds for federal income tax purposes under Section 103(a) of the Code.

(5) The City may issue System Bonds that are not tax-exempt bonds under the Code.

(u) [Section 26.21] Free Services Prohibited. No free service, facilities nor commodities shall be furnished by the System. Should the City use water services or facilities supplied by the System for municipal purposes, or any combination thereof, or in any other manner use the System, or any part thereof, any use of the System by or of the services rendered thereby to the City, or any department, board or agency thereof, will be paid for from the City's general fund or other available revenues at the reasonable value of the use so made, or service so rendered, which shall in no event be less than the rates charged to a System customer with similar consumption; and all the revenue so derived from the City shall be deemed to be income derived from the operation of the System, to be used and accounted for in the same manner as any other income derived from the operation of the System.

INTERIM PROMISSORY NOTE
($17,000,000 Water Utility System Loan)

To the New Mexico Environment Department (NMED)
Clean Water State Revolving Loan Fund (CWSRF)
-also known as-
Wastewater Facility Construction Loan Program

FOR VALUE RECEIVED, the **City of Santa Fe** (Borrower) promises to pay the NMED at:

New Mexico Environment Department
Construction Programs Bureau
1190 S. St. Francis Drive
P.O. Box 5469
Santa Fe, New Mexico 87505

or by electronic funds transfer (EFT)

or at such other place as NMED may hereafter designate in writing, the principal amount of

Seventeen Million Dollars ($17,000,000)

or so much of that amount as has been paid by NMED to the Borrower pursuant to the terms of the Interim Loan Agreement (Agreement) or any amendment to the Agreement for CWSRF 140 A-F between NMED and the Borrower plus **0.01% project interest annually** from the date of each respective disbursement annually until paid in full. Effective on the execution of the Agreement.

The principal plus interest due, if applicable, and payable on this Note shall be payable as follows: Principal loaned, and the subsequent interest shall be due and paid according to the Final Promissory Note as described.

Repayment Rate and Schedule

Annual principal and interest payments will commence not later than one year after completion of the project and shall be paid in annual installments due on the anniversary of the first annual installment. A Final Promissory Note will be processed and executed, and the Agreement will be amended and executed as a Final Loan Agreement to reflect the final amount loaned by NMED to Borrower. The principal amount of the Final Promissory Note and Agreement, as amended, will be an amount equal to that loaned and paid to Borrower under this Note.

Source of Repayment

The Borrower is giving a security interest by dedicating the Pledged Funds. The Pledged Funds are defined as **Net Water Utility System Revenue**. Except as stated in the Ordinance, the Pledged Funds have not been pledged to the payment of any outstanding obligations and no other obligations are payable from the Pledged Funds on the date of the Ordinance. The loan will be payable and collectible solely from the Pledged Funds.

Assignment

No assignment by NMED of the right to receive payments under this Note shall affect the Borrower's obligations or rights other than to make payments either by EFT or at the address designated by NMED to the Borrower in writing.

Collection and Default

At the option of NMED, any amount paid by NMED to collect amounts due under this Note or to preserve or protect NMED's rights under the Agreement shall become a part of, and bear interest at the interest rate as set forth in the previous REPAYMENT RATE AND SCHEDULE section above and shall become immediately due and payable by the Borrower to NMED upon demand by NMED. Events of default and remedies upon an event of default as described in the Agreement in COVENANTS are incorporated herein by reference.

Prepayment

The Borrower may prepay all or any part of the principal of this Note without penalty. Extra payments, shall, after payment of interest due, be applied to the reduction of principal. After any prepayment of principal, the Borrower shall continue to pay the amounts listed in the Agreement and Final Promissory Note until the entire principal and interest are paid in full.

Authority

This Note is authorized by the Wastewater Facility Construction Loan Act, NMSA 1978, § 74-6A-1 et seq., as amended, the New Mexico Water Quality Control Commission Regulations, 20.7.5 NMAC, the New Mexico Environment Department Regulations, 20.7.6 – 20.7.7 NMAC, and the Borrower's Ordinance No. 2024-6.

This Note shall not constitute indebtedness or debt within the meaning of any constitutional, charter or statutory provision, or limitation, nor shall this Note be considered or held to be a general obligation of the Borrower. The obligations of the Borrower under the Agreement and Note are payable and collectible solely out of the Pledged Funds as defined in the Agreement, and NMED or any other holders of the Agreement or Note may not look to any general or municipal fund for the payment of the principal or interest on the Agreement or Note.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and effective as of the date listed below by the Borrower.

_____
Borrower's Authorized Signature

_____
Borrower's Printed Name

_____
Title

_____
Date

State of _

County of

Signed or attested before me on _____ by ,
Date Witness for City of Sant Fe

_____
Notarial Officer Signature

[Official Stamp] Title of Office:

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-04

INTRODUCED BY:

Councilor Carol Romero-Wirth

Councilor Michael Garicia

Councilor Amanda Chavez

A BILL

AMENDING ORDINANCE NO. 2024-6 TO APPROVE THREE INDIVIDUAL LOAN AGREEMENTS WITH THE NEW MEXICO ENVIRONMENT DEPARTMENT TO BE PAID WITH REVENUES FROM EACH SYSTEM, RESPECTIVELY: (1) A WASTEWATER PROJECT LOAN AGREEMENT; (2) A WATER PROJECT LOAN AGREEMENT; AND (3) A SOLID WASTE COLLECTION PROJECT LOAN AGREEMENT; INCORPORATING DEFINITIONS AND COVENANTS RELATING TO WASTEWATER, WATER, AND SOLID WASTE SYSTEM DEBT OBLIGATIONS IN EACH LOAN AGREEMENT, RESPECTIVELY, BY REFERENCE HEREIN; RATIFYING PRIOR ACTION CONSISTENT WITH THE PROVISIONS HEREOF; AND REPEALING PRIOR ACTION INCONSISTENT WITH THE PROVISIONS HEREOF, BUT ONLY TO THE EXTENT OF SUCH INCONSISTENCY.

Capitalized terms used in the following preambles [~~are defined in Section 1 of this Ordinance~~] have the same meaning as set forth in Section 1 of this Amendatory Ordinance, unless the context requires otherwise.

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

WHEREAS, the City of Santa Fe, New Mexico (the "~~Borrower~~ City") is a legally [~~and regularly~~] created public body, established, organized and existing incorporated charter municipality with home-rule powers under the [~~general~~] constitution and laws of the State of New Mexico [~~("State")~~]; and

WHEREAS, the Borrower now owns, operates, and maintains public utilities including Water, Wastewater, and Environmental Services systems ("System"); and

WHEREAS, the present Systems are insufficient and inadequate to meet the needs of the Borrower; and

WHEREAS, the New Mexico Environment Department ("NMED") is offering the Borrower [~~a~~] three loans to assist in financing improvements to the Systems (the "Projects"), pursuant to [~~an~~] three agreements ("Loan Agreements") and respective promissory notes ("Notes"), payable solely from certain revenues described herein ("the Pledged Revenues"); and

WHEREAS, NMED intends to fund the Loan Agreements with funds that include a one-time federal grant to the NMED from the Environmental Protection Agency (EPA); and

WHEREAS, under the terms of the Loan Agreements, the Projects are [~~is~~] subject to specific requirements of the federal grants;[~~and~~]

WHEREAS, the Borrower has the following obligations outstanding to which the Pledged Revenues have already been pledged:

Funding Source (e.g., Revenue Bond, NMED, NMFA, etc.) and Series# or Loan/Project #	Principal Amount Outstanding at 06/30/2023
Water Utility System Refunding, Series 2016	$30,145,000
Public Project Revolving Fund ("PPRF")-Buckman Diversion Project, Series 2008	$5,191,493
Drinking Water Revolving Fund ("DWRLF") No. 2696, Series 2013	$1,499,281

WHEREAS, the Governing Body of the Borrower has determined that it is in the best

interest of the Borrower to accept and enter into the Loan Agreements and to execute and to deliver the Notes, for each of the three agreements respectively, to the NMED[,]; and

WHEREAS, the Governing Body adopted Ordinance No. 2024-6 on August 14, 2024, pursuant to which it approved a form of loan agreement with the New Mexico Environment Department ("NMED") in the principal amount of $151,000,000 (the "Proposed Combined NMED Loan Agreement"), for the purpose of financing (1) improvements to the City's Water Utility System, consisting of the Nichols Dam Outlet Works Rehabilitation Project (the "Water System Improvement Project"); (2) improvements to the City's Wastewater Utility System, consisting of (a) UV Disinfection Replacement project; (b) Sanitary Sewer Line Repair project, (c) Collections Division Equipment and Administration Building project, and (d) Wastewater Treatment Plant Repair and Rehabilitation Project (collectively, the "Wastewater System Improvement Projects"); and (3) improvements to the City's Solid Waste Collection System, consisting of Environmental Services Division Maintenance and Administrative Building Project (the "Solid Waste System Project"); and

WHEREAS, the portion of the Proposed Combined NMED Loan Agreement to be applied to the Water System Improvement Project would be repayable from Net Water System Revenues; and

WHEREAS, the portion of the Proposed Combined NMED Loan Agreement to be applied to the Wastewater System Improvement Project would be repayable from Net Wastewater System Revenues; and

WHEREAS, the portion of the Proposed Combined NMED Loan Agreement to be applied to the Solid Waste System Improvement Project would be repayable from Net Solid Waste System Revenues; and

WHEREAS, each of the Net Water System Revenues, Net Wastewater System Revenues, and Net Solid Waste System Revenues has been pledged as security for repayment of, respectively,

outstanding Net Water System Revenue obligations, outstanding Net Wastewater System Revenue obligations, and Net Solid Waste System Revenue obligations; and

WHEREAS, the ordinances authorizing the issuance of outstanding Net Water System Revenue obligations include definitions and covenants which are specific to the operation of the Water Utility System, and govern the issuance of additional debt obligations secured by Net Water System Revenue; and

WHEREAS, the ordinances authorizing the issuance of outstanding Net Wastewater System Revenue obligations include definitions and covenants which are specific to the operation of the Wastewater Utility System, and govern the issuance of additional debt obligations secured by Net Wastewater System Revenue; and

WHEREAS, the ordinances authorizing the issuance of outstanding Net Solid Waste System Revenue obligations include definitions and covenants which are specific to the operation of the Solid Waste Collection System, and govern the issuance of additional debt obligations secured by Net Solid Waste System Revenue; and

WHEREAS, for the purpose of delineating the separate net system revenues being pledged as security for repayment of the loan funds to be provided by NMED for the Water System Improvement Project, the Wastewater System Improvement Projects and the Solid Waste System Improvement Project, and the separate definitions and covenants applicable to each category of pledged revenues, the Governing Body deems it advisable and in the interest of the City to approve a separate loan agreement for each of the Water System Improvement Project, the Wastewater System Improvement Projects, and the Solid Waste System Improvement Project (collectively, the "Improvement Projects"); and

WHEREAS, the following forms of NMED loan documents have been presented to the Governing Body in connection with its consideration of this Ordinance:

(1) $17,000,000 Water Utility System Interim Loan Agreement and

Supplement with Covenants and Provisions Applicable to Net Water Utility System Obligations, and Interim Promissory Note;

(2) $114,000,000 Wastewater Utility System Interim Loan Agreement and Supplement with Covenants and Provisions Applicable to Net Wastewater Utility System Obligations, and Interim Promissory Note; and

(3) $20,000,000 Solid Waste Collection System Interim Loan Agreement and Supplement with Covenants and Provisions Applicable to Net Solid Waste Collection System Obligations, and Interim Promissory Note;

and

WHEREAS, the City intends to finance the costs of the Water System Improvement Project with the proceeds of the Water Utility System Interim Loan Agreement, the costs of the Wastewater Utility System Improvement Projects with the proceeds of the Wastewater Utility System Interim Loan Agreement, and the costs of the Solid Waste Collection System Improvement Project with the proceeds of the Solid Waste Collection System Interim Loan Agreement (together with the Water Utility System Interim Loan Agreement and the Wastewater Utility System Interim Loan Agreement, as each is supplemented by its respective Supplement, the "Loan Agreements"), and to authorize the execution and delivery of the Loan Agreements and corresponding Promissory Notes, subject to the terms and provisions of this Amendatory Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE ~~[BORROWER]~~ CITY OF SANTA FE, NEW MEXICO:

Section 1. Definitions. As used in the Ordinance, the following terms shall have the meanings specified below, unless the context clearly requires otherwise and to the extent that the terms do not conflict with the three Loan Agreement Supplements *(such meaning to be equally applicable to both the singular and the plural forms of the terms defined unless the plural form is separately defined)*: In addition to the terms defined in the recitals hereof and below in this section,

the defined terms appearing in the Supplement with Covenants and Provisions Applicable to Net Water Utility System Obligations, the Supplement with Covenants and Provisions Applicable to Net Wastewater Utility System Obligations, and the Supplement with Covenants and Provisions Applicable to Net Environmental Services Division Collection System Obligations, are incorporated herein by reference.

ACT. The general laws of the State, including the Wastewater Facility Construction Loan Act at NMSA 1978, Sections 74-6A-1 to -15 , as amended; enactments of the Governing Body of the Borrower relating to the Notes and the Loan Agreements made by resolution or ordinance, including this ordinance; and the powers of the Borrower as a public body under authority given by the Constitution and Statues of the State.

ANNUAL AUDIT or SINGLE AUDIT. Financial statements of the Borrower as of the end of each Fiscal Year, audited by an Auditor, consistent with the federal Single Audit Act and the State Auditor's rules.

AUTHORIZED OFFICER. City of Santa Fe Mayor Alan Webber or other officer or agent of the Borrower is designated by the Borrower's Signature Resolution Number 2024-30 adopted by the Governing Body of the Borrower, as amended.

BORROWER. The entity requesting funds pursuant to the Act.

FISCAL YEAR. The twelve-month period commencing on the first day of July of each year and ending on the last day of June of the succeeding year, or any other twelve-month period which the Borrower hereafter may establish as the fiscal year of the System.

GOVERNING BODY OF THE BORROWER. City of Santa Fe governing body.

LOAN. A loan of funds from NMED made pursuant to the Loan Agreement.

LOAN AGREEMENT. The interim loan agreement between the Borrower and the NMED, pursuant to which funds will be loaned to the Borrower to construct the Project and pay eligible costs relating thereto; and the final (repayment) loan agreements which shall state the

amounts put into repayment the NMED loaned to the Borrower, which shall be executed annually or biannually per an agreed upon disbursement amount or upon completion of the Projects.

NMSA. New Mexico Statues Annotated, 1987 Compilation, as amended and supplemented.

NOTE. The interim and final promissory notes issued by the Borrower to the NMED evidencing the obligation of the Borrower to the NMED incurred pursuant to the Ordinance and Loan Agreements.

OPERATION AND MAINTENANCE. All reasonable and necessary expenses of the Systems, paid or accrued, relating to operating, maintaining, and repairing the System.

ORDINANCE. This Ordinance includes amendments.

PARITY BONDS or PARITY OBLIGATIONS. Revenue Bonds and other bonds or other obligations payable from the Pledged Revenues issued with a lien on the Pledged Revenues on parity with the bonds or obligations as listed in this Ordinance.

PLEDGED REVENUES.

- Water System Revenue for Nichols Dam Project
- Wastewater System Revenue for
    - The Ultraviolet (UV) Disinfection Replacement Project,
    - The Collections Equipment and Administrative Building, and
    - The Sanitary Sewer Line Repair and Rehabilitation
    - The Wastewater Treatment Plant (WWTP) Rehabilitation.
- Environmental Services Division Net Revenue for the Environmental Services Division Administrative Building, Maintenance Space, and Storage Area.

PROJECT. The most current NMED approved Project Description described on the Project Description Form on file with NMED, including but not limited to:

- Nichols Dam Outlet Works Rehabilitation.

- UV Disinfection Replacement Project.
- Collections Equipment and Administrative Building.
- Sanitary Sewer Line Repair/Rehabilitation.
- Wastewater Treatment Plant Repair and Rehabilitation
- Environmental Services Division Administrative Building, Maintenance Space, and Storage Area

PROJECT COMPLETION DATE. The date that operations of the completed works are initiated or capable of being initiated, whichever is earlier. This also applies to individual phases or segments.

REGULATIONS. Regulations promulgated by the Water Quality Control Commission at 20.7.5 NMAC and New Mexico Environment Department at 20.7.6 - 20.7.7 NMAC.

SUBORDINATE OBLIGATIONS. Other obligations payable from the Pledged Revenues issued with a lien on the Pledged Revenues subordinate to the lien of [~~the~~] each Loan Agreement and Note as may be listed in this Ordinance.

Section 2. RATIFICATION. All action before now (not inconsistent with the provisions of the Ordinance) by the Governing Body, the officers and employees of the Borrower, directed toward the Loan Agreements and the Notes, is ratified, approved and confirmed as a result of this document

Section 3. Approval of Loan Agreements. The Loan Agreements, as supplemented with the Supplement corresponding to each, and the Interim Promissory Note corresponding to each Loan Agreement, are hereby approved for execution and delivery to NMED, with such modifications as may be required by NMED or otherwise deemed advisable and consistent with the purposes of this Amendatory Ordinance. Prior approval of the Proposed Combined NMED Loan Agreement pursuant to Ordinance No. 2024-6 is hereby repealed.

Section [~~3~~] 4. FINDINGS. The Governing Body of the Borrower declares that it has

considered all relevant information and data and makes the following findings:

(A) The execution and delivery of the Loan Agreements and the Notes pursuant to the Act to provide funds to finance the Projects, is necessary and in the interest of the public health, safety, and welfare of the residents of the Borrower.

(B) The money available for the Projects from all sources other than the Loan Agreements is not sufficient to pay when due to cost of the Project.

(C) The Pledged Revenues may lawfully be pledged to secure the payment of amounts due under the Loan Agreements and Notes.

Section [4]5. [~~**SYSTEM.** The Systems shall continue to constitute Water, Wastewater, and Environmental Services systems and shall be operated and maintained as such~~] **Repeal of Prior Inconsistent Action.** All ordinances or parts of ordinances, including Ordinance No. 2024-6, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repeal shall not be construed to revive any ordinance or part of any ordinance heretofore repealed.

Section [~~5~~]6. Authorization [~~OF PROJECT~~] to Execute Related Documents and Delegated Authority. The acquisition and construction of the Projects and payment of eligible items are set forth in the regulations from proceeds of the Loan Agreements and Notes are [~~is~~] hereby authorized as a cost not to exceed the principal Loan amounts, respectively [~~of $ 151 million~~], excluding any cost of the Project to be paid from any source other than the proceeds of the Loan Agreements and respective Notes

Section [~~6~~]7. AUTHORIZATION OF LOAN AGREEMENTS.

(A) For the purpose of protecting the public health, conserving the property, and protecting the general welfare of the borrowing community it is hereby declared necessary that the Borrower execute and deliver the Loan Agreements and Notes to be payable and collectible solely from the Pledged Revenues. The NMED has agreed to disburse the proceeds according to the terms of the Loan Agreements to the Borrower over the construction period of the Project. The principal

Loan amounts of the Notes shall not exceed the loan amounts specified in each of the three agreements [~~$151 million~~] without the adoption of another Ordinance amending the Ordinance by the Governing Body of the Borrower, *and the annual interest rate on that principal amounts shall not exceed 0.01% percent per annum. Interest shall be computed as a percentage per year on the outstanding principal amounts on the Loans on the basis of a 365-day year, actual number of days lapsed.* The final maturity date on the Notes shall not extend beyond the agreed upon useful life of the project. The Loans shall be repaid in substantially equal annual installments in the amount and on the dates provided in the Loan Agreements with the first annual installment in the amount and on the dates provided in the Loan Agreements with the first annual installment due no later than one year after the completion of the project. The Borrower must maintain a debt service coverage ratio of no less than 1.2 and must obtain the written consent of the NMED before issuing additional obligations secured by the Pledged Revenues.

(B) If the Borrower fails to satisfy any federal grant requirements or conditions, the Borrower may be required to refund any federal grant funds disbursed to the Borrower from NMED.

(C) The NMED has approved the form of the Loan Agreements and the Notes. The Authorized Officer is hereby directed to execute and deliver the Loan Agreements and the Notes and any amendments to the [~~I~~]Loan Agreements or Notes to be executed after completion of the Project with such changes consistent with the Ordinance. The approval by an Authorized Officer of these documents in their final forms shall constitute conclusive evidence of their approval and compliance with this section.

(D) From the date of the initial execution and delivery of the Loan Agreements and the Notes, Authorized Officers, agents and employees of the Borrower are authorized, empowered, and directed to carry out such acts and to execute all such documents as may be necessary to comply with the provisions of this Ordinance, the Loan Agreements, and the Notes.

Section [~~7~~]8. SPECTIAL LIMITED OBLIGATIONS. All Funds disbursed pursuant to the Loan Agreements and the Notes shall be special limited obligations of the Borrower and shall be payable and collectible solely from the Pledged Revenues which are irrevocably pledged as set forth in this Ordinance. The NMED may not look to any general or other fund for the payment on the Loan Agreements and the Notes except the designated special funds pledged. The Loan Agreements and the Notes shall not constitute indebtedness or debts within the meaning of any constitutional, charter, or statutory provision or limitation, nor shall they be considered or be held to be general obligations of the Borrower and shall recite that they are payable and collectible solely from the Pledged Revenues.

Section 9. Effective Date, General Summary for Publication. Upon due adoption of this Ordinance, the City shall record and preserve it as is consistent with 2-2.4, "Ordinances; effective date; proof of publication", SFCC 1987, and this Ordinance shall be in full force and effect after its publication in accordance with law.

[~~**Section 8. OPERATION OF PROJECT.** The Borrower shall operate and maintain the Project so that it will function properly over its structural and material design life.~~

~~**Section 9. USE OF PROCEEDS.** The NMED shall disburse Funds pursuant to the Loan Agreement for NMED approved costs incurred by the Borrower for the Project or to pay contractors or suppliers of materials for work performed on the Project as set forth in the Loan Agreement.~~

~~**Section 10. APPLICATION OF REVENUES.**~~

~~**(A) OPERATION AND MAINTENANCE.** So long as the Loan Agreement and the Note are outstanding, either as to principal or interest, or both, the Borrower shall pay for the operation and maintenance expenses of the System, approved indirect charges and any amounts for capital replacement and repair of the System as incurred.~~

~~**(B) PARITY OBLIGATIONS AND OTHER APPROVED DEBT(S)**. The Borrower shall pay the principal, interest and administrative fees (if applicable) of parity obligations and other approved debts which are secured from the Pledged Revenues as scheduled.~~

~~**(C) EQUITABLE AND RATABLE DISTRIBUTION.** Obligations of the Borrower secured by the Pledged Revenues on parity with the Loan Agreement and the Note, from time to time outstanding, shall not be entitled to any priority one over the other in the application of the Pledged Revenues, regardless of the time or times of their issuance or creation.~~

~~**(D) SUBORDINATE OBLIGATIONS.** The Pledged Revenues used for the payment of Subordinate Obligations shall be applied first to the payment of the amounts due the Loan Agreement and the Note, including payments to be made to other obligations payable from the Pledged Revenues which have a lien on the Pledged Revenues on parity with the Loan Agreement and the Note.~~]

Section [~~11~~] 10. LIEN OF LOAN AGREEMENTS AND NOTES. The Loan Agreements and the Notes shall constitute irrevocable liens upon the Pledged Revenues with priorities on the Pledged Revenues as set forth in the Loan Agreements [~~in this Ordinance~~]. The Borrower hereby pledges and grants a security interest in the Pledged Revenues for the payment of the Notes and any other amounts owed by the Borrower to the NMED pursuant to the Loan Agreements.

[~~**Section 12. OTHER OBLIGATIONS**. Nothing in the Ordinance shall be construed to prevent the Borrower from issuing bonds or other obligations payable from the Pledged Revenues and having a lien thereon subordinate to the liens of the Loan Agreement and the Note. The Borrower must obtain the written consent of the NMED before issuing additional obligations secured by the Pledged Revenues.~~

~~**Section 13. DEFAULT**. The following shall constitute an event of default under the Loan Agreement:~~

~~**(A)** The failure by the Borrower to pay the annual payment due on the repayment of the Loan set forth in the Loan Agreement and Note when due and payable either at maturity or otherwise; or~~

~~**(B)** Default by the Borrower in any of its covenants or conditions set forth under the Loan Agreement *(other than a default described in the previous clause of this section)* for 60 days after the NMED has given written notice to the Borrower specifying such default and requiring the same to be remedied.~~

~~**UPON OCCURRENCE OF DEFAULT:**~~

~~**(A)** The entire unpaid principal amount of the Interim and Final Promissory Note plus accrued interest and any fees thereon may be declared by the NMED to be immediately due and payable and the Borrower shall pay the amounts due under Note from the Pledged Revenues, either immediately or in the manner required by the NMED in its declaration, but only to the extent funds are available for payment of the Note. However, if insufficient funds are available for payment of the Note(s), the NMED may require the Borrower to identify sources for additional funds, which may include adjusting the rates charged by the System to ensure repayment of the Note in accordance with applicable laws.~~

~~**(B)** If default by the Borrower is of covenants or conditions required under the federal grant, the Borrower may be required to refund the amount of the Loan disbursed to the Borrower from NMED.~~

~~**(C)** The NMED shall have no further obligation to make payments to the Borrower under the Loan Agreement.~~]

Section [~~14~~] 11. ENFORCEMENT VENUE. The NMED retains the right to seek enforcement of the terms of the Loan Agreement. If the NMED and the Borrower cannot reach agreement regarding disputes as to the terms and conditions of this Loan Agreements, such disputes are to be resolved promptly and expeditiously in the district court of Santa Fe County. The

Borrower agrees that the district court for Santa Fe County shall have exclusive jurisdiction over the Borrower and the subject matter of [~~this~~] these Loan Agreements and waives the right to challenge such jurisdiction.

Section [~~15~~] 12. REMEDIES UPON DEFAULT. Upon the occurrence of any of the events of default as provided in the Loan Agreements or in this Ordinance, the NMED may proceed against the Borrower to protect and enforce its rights under the Ordinance by mandamus or other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained in the Ordinance for the enforcement of any proper legal or equitable remedy as the NMED may deem most effective to protect and enforce the rights provided above, or to enjoin any act or thing which may be unlawful or in violation of any right of the NMED, or to require the Borrower to act as if it were the trustee of an express trust, or any combination of such remedies. Each right or privilege of the NMED is in addition and cumulative to any other right or privilege under the Ordinance or the Loan Agreements and Notes and the exercise of any right or privilege by the NMED shall not be deemed a waiver of any other right or privilege.

Section [~~16~~] 13. DUTIES UPON DEFAULT. Upon the occurrence of any of the events of default as provided in this Ordinance, the Borrower, in addition, will do and perform all proper acts on behalf of and for the NMED to protect and preserve the security created for the payment of the Notes to ensure the payment on the Notes promptly as the same become due. All proceeds derived from the System, so long as the respective Note is outstanding, shall be treated as revenues. If the Borrower fails or refuses to proceed as required by this Section, the NMED, after demand in writing, may proceed to protect and enforce the rights of the NMED as provided in the Ordinance and the Loan Agreements.

Section [~~17~~] 14. TERMINATION. When all obligations under the Loan Agreements and Notes have been paid, the Loan Agreements and Notes shall terminate and the pledge, lien, and all

other obligations of the Borrower under the Ordinance shall be discharged. The principal amount of the Notes, or any part thereof, may be prepaid at any time without penalty at the discretion of the Borrower and the prepayments of principal shall be applied as set forth in the Loan Agreements.

Section [~~18~~] 15. AMENDMENT OF ORDINANCE. This Ordinance may be amended with the prior written consent of the NMED.

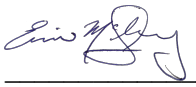
Section [~~19~~] 16. ORDINANCE IRREPEALABLE. After the Loan Agreements and Notes have been executed and delivered, the Ordinance shall be and remain irrepealable until the Notes [~~has~~] have been fully paid, terminated, and discharged, as provided in the Ordinance.

Section [~~20~~] 17. SEVERABILITY CLAUSE. If any section, paragraph, clause, or provision of the Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of the Ordinance.

Section [~~21~~] 18. REPEALER CLAUSE. All bylaws, orders, Ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, Ordinance, or part thereof, heretofore repealed.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

APPROVED AS TO FORM:



_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Bills/Clarifying Structure of NMED Loan

FIR No. 10631

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** X **Resolution:** _____

Short Title(s): Clarifying the Structure of a Loan Agreement with New Mexico Environment Department

Sponsor(s): Councilor Amanda Chavez, Councilor Carol Romero-Wirth, Councilor Michael Garcia

Reviewing Department(s): Public Utilities Department, Finance Department

Staff Completing FIR: Emily K. Oster **Date:** 11/8/2024 **Phone:** 505-699-2018

Reviewed by City Attorney: _____ **Date:** Feb 21, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 21, 2025

Summary:

The bill amends Ordinance 2024-6 which authorized the City of Santa Fe's ("City") Public Utilities Department to enter into a loan agreement with the New Mexico Environment Department ("NMED") to accept funding in the form of a one hundred and fifty-one million dollars ($151,000,000) loan through the Clean Water State Revolving Fund ("CWSRF"). The loan proceeds will provide important funding that will be used for high priority water, wastewater, and environmental service infrastructure projects for the purpose of facilitating major repairs to aging infrastructure. Some of these projects involve upgrades to meet Environmental Protection Agency ("EPA") standards. The proposed amendment to the ordinance clarifies the structure of the debt. The purpose of the amendment is to authorize, in place of the single combined $151,000,000 loan agreement, three separate loan agreements: (1) a Wastewater Utility System Loan Agreement in the principal amount of $114,000,000, to be repaid from pledged Net Wastewater System revenue, (2) a Water Utility System Loan Agreement in the principal amount of $17,000,000, to be repaid from pledged Net Water System revenue, and (3) an Environmental Services Division Loan Agreement in the principal amount of $20,000,000, to be repaid from Net Environmental Services Division revenue. The three agreements will replace the single loan agreement for three separate utility systems with three separate revenue streams to be pledged for repayment of the loan amount, financing projects, as approved in the original ordinance. Each loan agreement will include the covenants and provisions applicable to the utility system being improved with the proceeds of that loan, which the City agreed to impose in connection with its outstanding Wastewater Utility System revenue bonds, Water Utility System revenue bonds, and Solid Waste Utility System debt obligations. The 0.01 interest rate and all other material terms of the combined $151,000,000 loan offered by NMED will apply to each separate loan.

Departments Affected:

Public Utilities Department, Finance Department

Consequences of Not Enacting Legislation:

If this legislation is not adopted, the City's NMED's CWSRF financing will not be structured in the most advantageous way for the City. Without this amendment, the entire amount of one hundred and fifty-one million dollar ($151,000,000) loan could be attributed to each of the three utility systems. This lack of specificity could affect utility revenue bond ratings and the capacity of each system to take on new debt in the future.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This proposed legislation is an amendment to Ordinance 2024-6. As required by NMAC Rule 20.7.6.15, a related Resolution, Resolution 2024-30 designated signatories on the loan agreement and promissory note for certain water, wastewater and environmental services projects.

Performance and Administrative Implications:
As required by NMAC Rule 20.7.6.15, loan agreements and promissory notes must be finalized and signed after this Ordinance is adopted and finalized.

Fiscal Implications:
The CWSRF loan is a unique opportunity to borrow funding that is necessary to update aging infrastructure at a very low interest rate. The 0.01% interest rate, and all other material terms of the combined $151,000,000 loan offered by NMED will apply to each separate loan for Wastewater, Water and Environmental Services. Loan principal repayment will begin after completed projects are put in service. For the Wastewater system, principal payments of $100,000 per year are expected to begin in FY28, with principal increasing to approximately $4M dollars per year in FY30. For the Water system, principal payments of approximately $566,000 per year are expected to begin in FY28. For the Environmental Services system, principal payments of approximately $666,000 per year are expected to begin in FY28. Loan principal and interest are expected to be repaid from the Water Management Fund cash balance, Wastewater Management Fund cash balance, and Environmental Services Fund cash balance, respectively.

Fiscal Impact

x Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 25	FYE 26	FYE 27	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits	$	$	$				
Operating- Interest Expense	$	$	$				$
Operating- Interest Expense	$	$	$				$
Operating- Interest Expense	$	$	$				$
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 25	FYE 26	FYE 27	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise- Loan proceeds	$	$	$		
Enterprise- Loan proceeds	$	$	$		
Enterprise- Loan proceeds	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

CITY OF SANTA FE

Memorandum

Date: February 21, 2025

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

From: Johanna Nelson, Director of Office of Economic Development and Interim Director of Office of Affordable Housing JN

RE: Amending Ordinance No. 2021-10 to Extend Sunset from 2025 to 2030

EXECUTIVE SUMMARY:

This bill amends SFCC 1987, Section 11-14.5, to extend the specified sunset date of December 31, 2025, to December 31, 2030, with regards to depositing half of certain land sale revenues into the Affordable Housing Trust Fund (AHTF).

BACKGROUND AND CONTEXT

Ordinance No. 2021-10 dedicated 50% of unrestricted revenue from the sale of City-owned land to the Affordable Housing Trust Fund ("AHTF"). This AHTF funding strengthens the City's ability to address Santa Fe's critical affordable housing needs. However, this dedication also results in a corresponding reduction in revenue for the Economic Development Fund.

Affordable housing has been a persistent challenge in Santa Fe for decades. Recognizing this, the City established the AHTF following the state of New Mexico's passage of the New Mexico Affordable Housing Act, which provided an exemption to the state's Anti-Donation Clause. Codified in SFCC 26-3, the AHTF enables public resources to be used for the following activities:

- The preservation, rehabilitation, operation, and construction of affordable housing units and emergency shelters.
- Financial assistance for income-qualified individuals through rental, mortgage, and down payment assistance programs.

Despite these efforts, the City continues to face significant barriers in ensuring a steady and reliable funding source for the AHTF.

KEY ISSUE

The current revenue streams for the AHTF are limited and inconsistent. Historically, the fund has relied on development fees, the payoff of City-held affordability and fee waiver liens, and land sales in Tierra Contenta. These sources, however, are closely tied to fluctuations in the real estate and development markets, making them unpredictable and difficult to sustain.

While the dedication of certain resources to the Affordable Housing Trust Fund reduces revenue for the Economic Development Fund, it would prioritize housing affordability—a foundational issue that impacts economic growth, workforce stability, and overall quality of life in Santa Fe.

ATTACHMENTS:
Bill
Fiscal Impact Report

Signature: Johanna Nelson (Feb 21, 2025 17:07 MST)

Email: jcnelson@santafenm.gov

_Amending Economic Development Fund Ordinance to Extend Sunset from 2025 to 2030 (Memo)

Final Audit Report 2025-02-22

Created:	2025-02-22
By:	PALMER ANDERSON (pcanderson@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAV3z441ckIbvZUMM3UK91osvLT3iS9iyh

"_Amending Economic Development Fund Ordinance to Extend Sunset from 2025 to 2030 (Memo)" History

Document created by PALMER ANDERSON (pcanderson@santafenm.gov)
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Document emailed to Johanna Nelson (jcnelson@santafenm.gov) for signature
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Email viewed by Johanna Nelson (jcnelson@santafenm.gov)
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Document e-signed by Johanna Nelson (jcnelson@santafenm.gov)
Signature Date: 2025-02-22 - 0:07:30 AM GMT - Time Source: server- IP address: 174.240.20.215

Agreement completed.
2025-02-22 - 0:07:30 AM GMT

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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-9

INTRODUCED BY:

Councilor Michael Garcia

Councilor Amanda Chavez

Councilor Alma Castro

Councilor Pilar Faulkner

A BILL

AMENDING SECTION 11-14.5 OF THE ECONOMIC DEVELOPMENT FUND ORDINANCE TO CHANGE THE SUNSET DATE FOR DEPOSITING CERTAIN LAND SALE REVENUES IN THE AFFORDABLE HOUSING TRUST FUND FROM DECEMBER 31, 2025, TO DECEMBER 31, 2030.

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

Section 1. Section 11-14.5 of SFCC 1987 (being Ord. No. 2021-10, § 1, as amended) is amended to read:

11-14.5 – Dedication and partial sunset.

A. An amount of the general fund equal to a minimum of one-quarter of one percent (0.25%) of the city's share of the state gross receipts tax shall be allocated annually to the economic development fund beginning in the fiscal year 2000/01 budget. This allocation shall be increased by one-quarter of one percent (0.25%) each subsequent year until an allocation of one percent (1%) is attained in FY 2003/04. Thereafter, the allocation shall be maintained at one percent (1%) unless increased by other annual allocations the governing

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

body approves contingent upon sufficient appropriations and authorization by the governing body.

B. Between January 1, 2021 and December 31, [~~2025~~] 2030, half of all net proceeds from the sale of city-owned land and buildings shall be deposited into the economic development fund and half shall be deposited in the affordable housing trust fund, as set forth in section 26-3 SFCC 1987, and all net proceeds from the lease of city-owned land and buildings shall be deposited into the economic development fund. Thereafter, all net proceeds from any sale or lease of city-owned land and buildings shall be deposited into the economic development fund. These deposits shall be subject to the following provisions:

(1) Railyard property. Proceeds from the sale or lease of property on the railyard property are exempted from the provisions of this section and shall not be deposited in the economic development fund.

(2) Santa Fe Estates. Proceeds from the sale or the lease of the Santa Fe Estates are exempted from the provisions of this section and are subject to appropriation by the governing body.

(3) Tierra Contenta. Only the share of revenues from the sale of property in Tierra Contenta which had been designated to reimburse CIP funds used for the original purchase of Tierra Contenta shall be deposited in to the economic development fund (less funds already allocated for a new southside library in the amount of five hundred thousand dollars ($500,000.00). These funds shall be reserved for capital projects and their related expenses for projects authorized in subsection 11-14.5A SFCC 1987.

(4) Existing agreements. Agreements, ordinances and resolutions in force at the time of adoption of this section which stipulate other uses for the proceeds of specific transactions will exempt those transactions from the provisions of this section.

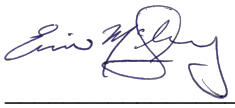
(5) Enterprise funds. Proceeds from the sale or lease of property belonging to or associated with enterprise funds are exempt from the provisions of this section.

(6) Airport Industrial Park. Net proceeds from the sale or lease of property in the Airport Industrial Park or other airport property, after all costs to build out all phases of the park have been recovered, shall go to the support of the Santa Fe regional airport.

(7) Other. Agreements for the sale or lease of city property which may be subject to other restrictions as to revenue designations or uses are not subject to the provisions of this section. Any such agreement must cite this subsection of this section in the agreement in order to qualify for this exemption.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

APPROVED AS TO FORM:



_____

ERIN K. McSHERRY, CITY ATTORNEY

CITY OF SANTA FE

Memorandum

Date: February 21, 2025

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

From: Johanna Nelson, Director of Office of Economic Development and Interim Director of Office of Affordable Housing JN

RE: Amending Ordinance No. 2021-10 to Extend Sunset from 2025 to 2030

EXECUTIVE SUMMARY:

This bill amends SFCC 1987, Section 11-14.5, to extend the specified sunset date of December 31, 2025, to December 31, 2030, with regards to depositing half of certain land sale revenues into the Affordable Housing Trust Fund (AHTF).

BACKGROUND AND CONTEXT

Ordinance No. 2021-10 dedicated 50% of unrestricted revenue from the sale of City-owned land to the Affordable Housing Trust Fund ("AHTF"). This AHTF funding strengthens the City's ability to address Santa Fe's critical affordable housing needs. However, this dedication also results in a corresponding reduction in revenue for the Economic Development Fund.

Affordable housing has been a persistent challenge in Santa Fe for decades. Recognizing this, the City established the AHTF following the state of New Mexico's passage of the New Mexico Affordable Housing Act, which provided an exemption to the state's Anti-Donation Clause. Codified in SFCC 26-3, the AHTF enables public resources to be used for the following activities:

- The preservation, rehabilitation, operation, and construction of affordable housing units and emergency shelters.
- Financial assistance for income-qualified individuals through rental, mortgage, and down payment assistance programs.

Despite these efforts, the City continues to face significant barriers in ensuring a steady and reliable funding source for the AHTF.

KEY ISSUE

The current revenue streams for the AHTF are limited and inconsistent. Historically, the fund has relied on development fees, the payoff of City-held affordability and fee waiver liens, and land sales in Tierra Contenta. These sources, however, are closely tied to fluctuations in the real estate and development markets, making them unpredictable and difficult to sustain.

While the dedication of certain resources to the Affordable Housing Trust Fund reduces revenue for the Economic Development Fund, it would prioritize housing affordability—a foundational issue that impacts economic growth, workforce stability, and overall quality of life in Santa Fe.

CITY OF SANTA FE

Memorandum

ATTACHMENTS:
Bill
Fiscal Impact Report

Signature: Johanna Nelson (Feb 21, 2025 17:07 MST)

Email: jcnelson@santafenm.gov

_Amending Economic Development Fund Ordinance to Extend Sunset from 2025 to 2030 (Memo)

Final Audit Report 2025-02-22

Created:	2025-02-22
By:	PALMER ANDERSON (pcanderson@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAV3z441ckIbvZUMM3UK91osvLT3iS9iyh

"_Amending Economic Development Fund Ordinance to Extend Sunset from 2025 to 2030 (Memo)" History

Document created by PALMER ANDERSON (pcanderson@santafenm.gov)
2025-02-22 - 0:05:47 AM GMT- IP address: 63.232.20.2

Document emailed to Johanna Nelson (jcnelson@santafenm.gov) for signature
2025-02-22 - 0:06:45 AM GMT

Email viewed by Johanna Nelson (jcnelson@santafenm.gov)
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Document e-signed by Johanna Nelson (jcnelson@santafenm.gov)
Signature Date: 2025-02-22 - 0:07:30 AM GMT - Time Source: server- IP address: 174.240.20.215

Agreement completed.
2025-02-22 - 0:07:30 AM GMT

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CITY OF SANTA FE

Memorandum

Date: February 19, 2025

To: Governing Body, Finance Committee

From: Alexis Lotero , Assistant Finance Director

Via: Emily Oster, Finance Director EKO

RE: Amending Section 11-2.1 To Establish "Special Appropriations", Budgeted for Up to Three Years

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EXECUTIVE SUMMARY:
The proposed amendment will separate the budgets for operational expenses from those for non-recurring expenses, such as capital outlay, grants, and other one-time funding. It would also allow for up to three-year appropriations for the non-recurring projects. Multi-year budgeting allows for strategic investment in projects that yield long-term benefits. Spreading the non-recurring expenditures over several years allows governments to focus on sustainable investments such as infrastructure improvements, technology upgrades, and workforce development initiatives.

Operationally, multi-year budgeting is more efficient for projects that are limited in scope but require more than one fiscal year to complete. This amendment eliminates the need for staff to prepare and receive approval for budget adjustments to "carry" one-time funding or grants into the subsequent fiscal year. The funding is intended to be appropriated for the duration of the project, even as it is limited to three years. The funding may be reauthorized beyond the three-year period with Governing Body approval.

ATTACHMENTS:
Bill
FIR

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2025-7

INTRODUCED BY:

Mayor Alan Webber

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

A BILL REGARDING ANNUAL BUDGETS INCLUDING MULTI-YEAR APPROPRIATIONS; AMENDING SECTION 11-2.1 TO CONFORM WITH THE CITY'S CHARTER; ESTABLISH MULTI-YEAR APPROPRIATIONS FOR CAPITAL OUTLAY, GRANT-FUNDED PROJECTS, AND "SPECIAL APPROPRIATIONS"; AND, EFFECTIVE DECEMBER 31, 2025, AMENDING SECTION 11-2.4 TO SUNSET THE FINANCE DIRECTOR'S BUDGET AMENDMENT AUTHORITY TO CARRY-OVER CERTAIN UNEXPENDED APPROPRIATIONS INTO THE NEXT FISCAL YEAR.

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

Section 1. Section 11-2.1 of SFCC 1987 (being Ord. No. 2008-20, § 1, as amended) is amended to read:

11-2.1 Appropriation.

Upon preparation and submission of an annual budget by the mayor [~~city manager~~], the governing body shall adopt the [~~next fiscal year's~~] budget by resolution that includes an operating budget and multi-year appropriations.

A. The final operating budget [~~document~~] shall include summaries of the following:

[~~A.~~] 1. Anticipated revenues by fund;

[~~B.~~] 2. Planned expenditures by fund, department, and category;

[~~C.~~] 3. Planned cash transfers between funds;

[~~D.~~] 4. Estimated beginning and ending cash balances;

[~~E.~~] 5. Costs for personnel salaries and benefits by fund and department;

[~~F.~~] 6. General obligation and revenue bonded debt service; and

7. [~~The annual budget includes all l~~]Line-item detailed reports for all funds and detailed personnel schedules, which must be prepared and be available upon request.

B. The following components may be included in a multi-year section of the budget:

[~~G.~~] 1. Schedules of lease purchase agreements; [~~and~~]

2. C[~~c~~]apital outlay appropriations authorized for up to three years;

3. Grant appropriations authorized for up to the term of the relevant grant;

4. "Special" appropriations, which are limited-duration, non-capital appropriations, authorized for up to three years; and

5. Reauthorizations of multi-year appropriations unexpended during the initial appropriation term and deemed necessary.

6. Deauthorizations of prior-year(s), unexpended, multi-year appropriations.

Section 2. Section 11-2.2 through 11-2.5 of SFCC 1987 (being Ord. No. 2008-20, § 1; SFCC 1981, § 9-3-3; SFCC 1981, § 9-3-4; No. Ord. #2001-37, § 1; and No. Ord. #2003-27, § 1, as amended, respectively) is included for reference without amendments:

11-2.2 Limitation on amount appropriated.

The total amount appropriated by the governing body in any particular fiscal year shall not exceed the probable amount of available money at the beginning of the year plus anticipated

revenue during the fiscal year.

11-2.3 State approval required.

The governing body shall submit its adopted budget to the local government division of the department of finance and administration for review, amendment, if required, and approval. Upon receipt of the approved budget the governing body shall cause such budget to be made a part of the minutes of the governing body.

11-2.4 Annual Audit.

A. The finance director shall complete an annual comprehensive financial report including all city funds. The finance director shall also ensure an annual audit is contracted with the state auditor or an independent auditing firm in accordance with generally accepted auditing standards, state statutes, and other written state auditor's office policies and procedures.

B. A copy of the annual comprehensive financial report shall be distributed to all members of the governing body when released by the state auditor. The auditors completing the audit shall present a summary of the audit report to the finance committee.

C. The city manager shall direct department directors to resolve the findings included in the audit report, and report to the finance committee within ninety (90) days of the presentation of the audit report. Findings not resolved shall be brought back to the finance committee every ninety (90) days until resolutions are final.

11-2.5 Review of fees and charges.

Prior to the mayor's [~~city manager's~~] recommendation of the annual budget to the governing body, the city manager shall direct all departments to review all fees and charges assessed by that department.

Section 3. Section 11-4 of SFCC 1987 (being Ord. No. 2020-33, § 2, as amended) is

amended to read:

11-4 BUDGET ADJUSTMENTS.

When budget adjustments are needed during the fiscal year, the following procedures shall apply:

A. The finance director has the authority to approve budget increases or decreases in revenue or transfers-in or in expenditures, expenses or transfers-out, that reflect increases or decreases in the budget up to and including five thousand dollars ($5,000.00).

B. The city manager has the authority to approve budget increases or decreases in revenue or transfers-in or in expenditures, expenses or transfers-out, that reflect increases or decreases in the budget up to and including sixty thousand dollars ($60,000.00).

C. The governing body shall approve budget increases or decreases in revenue or transfers-in or in expenditures, expenses or transfers-out, that reflect increases or decreases in the budget that are over sixty thousand dollars ($60,000.00).

D. Budget adjustments approved by the finance director, city manager, and the governing body shall be included by fund in a quarterly budget resolution approved by the governing body.

E. Budget adjustment requests will conform to the rules and regulations adopted by the local government division of the department of finance and administration.

F. For budgets associated with grants and grant agreements, the following shall apply:

(1) The finance director may approve grant applications, grant awards, grant match requirements, and agreements up to and including five thousand dollars ($5,000.00).

(2) The city manager may approve grant applications, grant awards, grant match requirements, and grant agreements up to and including sixty thousand

dollars ($60,000.00), or in any amount if the deadline to approve grant applications, grant awards, grant match requirements, or grant agreements occurs before the deadline to include the application or award on the agenda for the governing body's next regularly scheduled meeting, in which case the application or award shall be subject to ratification by the governing body at the next scheduled meeting for which an agenda has not yet been posted.

(3) The city manager may approve budget revenue and related expenditure/expense increases exceeding sixty thousand dollars ($60,000.00) (including budget adjustments or decreases, as applicable), for grants provided that all of the following conditions are met:

(a) The governing body has already approved the grant application including the recommended match (if applicable), unless the deadline to seek or accept the funds occurs before the deadline to include the agreement on the agenda for the governing body's next regularly scheduled meeting, in which case the agreement shall be subject to ratification by the governing body at the next scheduled meeting for which an agenda has not yet been posted; and

(b) The final grant award does not significantly differ from the grant application in the amount, match, requirements, or other requirements on the part of the city; and

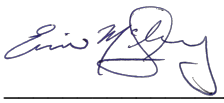
(4) Any city department receiving a grant shall submit a copy of the final award agreement and documentation for the grant to the finance department for financial tracking, reporting and auditing purposes.

G. Until December 31, 2025, or until the city implements software appropriate for accounting for multi-year appropriations for grants and capital projects, whichever is later, [~~U~~]unspent amounts

from multi-year grants and capital projects that the governing body approved in the prior fiscal year may be appropriated in the following fiscal year if the department administering the grant or capital project requests, and the finance director approves, such an appropriation. The appropriation shall be the entire remaining balance and it shall be budgeted for the same purpose and project that were approved by the governing body during the prior fiscal year. The finance department shall include such amounts in a quarterly budget resolution for review and approval of the governing body.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

APPROVED AS TO FORM:



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ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2025/Bills/Multi-year Budgeting for Capital and Special Appropriations

FIR No. 10660.1

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** x **Resolution:** _____

Short Title(s): Multi-Year Special Appropriations

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): Finance Department

Staff Completing FIR: Alexis Lotero **Date:** 2/21/2025 **Phone:** (505) 955-6137

Reviewed by City Attorney: _____ **Date:** Feb 21, 2025

Reviewed by Finance Director: Emily K. Oster **Date:** Feb 21, 2025

Summary: This Bill would separate appropriations for operational expenses from those for non-recurring expenses, such as capital outlay, grants, and other one-time funding. It will also sunset the Finance Director's authority to carry-over budgeted funds for capital projects and funds derived from grants for an unlimited number of years.

Departments Affected: All departments

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City will not establish multi-year appropriations for "special appropriations", capital outlay, and grant-funded projects. Additionally, the Finance Director's budget authority to carry over certain unexpended appropriations into the next fiscal year would remain in place rather than sunsetting.

Conflict, Duplication, Companionship, or Relationship to Other Legislation: This bill relates to all the City's annual budget resolutions and quarterly budget adjustment resolutions.

Performance and Administrative Implications:
Separating appropriations for non-recurring funding from operating appropriations enhances financial stability by enabling policymakers to strategically allocate temporary resources without creating ongoing financial obligations. By planning appropriations over multiple years, governments can ensure that one-time funds contribute to long-term priorities rather than short-term gaps.

Fiscal Implications: The Bill does not have a fiscal impact but will impact budgeting to allow more accurate operating budgets and more realistic budgeting of multi-year projects.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 2025	FYE 2026	FYE 2027	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

Expenditure Narrative:

Revenue

Revenue Type	FYE 2025	FYE 2026	FYE 2027	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

Signature:

Email: aclotero@santafenm.gov

CITY OF SANTA FE

Memorandum

Date: November 25, 2024

To: Governing Body and Quality of Life Committee

From: Marci Eannarino, Legislation and Policy Innovation Manager ME

Via: Erin K. McSherry, City Attorney EM

RE: Public Safety Administration

EXECUTIVE SUMMARY:

The proposed bill would amend SFCC 1987, Section 2-8.2 and create Sections 2-8.8 and 2-8.9. The Amendment to Section 2-8.2 would change the name of that Section from "Community Health and Safety Department" to the "Health and Human Services Department" and remove the subsections regarding the City of Santa Fe Police Department ("Police Department") and the City of Santa Fe Fire Department ("Fire Department"). The subsections regarding the Fire Department and the Police Department would be moved into the two newly created Sections: 2-8.8, "City of Santa Fe Police Department" and 2-8.9, "City of Santa Fe Fire Department".

BACKGROUND:
Ordinance No. 2020-22 established the Community Health and Safety Department and specified that it included five divisions: the Community Services Department, Police Department, Fire Department, Recreation Division, and the Office of Emergency Management and Safety.

Ordinance No. 2023-11 revised the Section of code describing the Community Health and Safety Department by removing language prescribing the "Recreation Division" as a division of the Community Health and Safety Department and specifying that the Family and Youth Services is part of the Community Services Department. It also removed the term "Safety" from the name of the Office of Emergency Management and Safety to make it "Office of Emergency Management".

ATTACHMENTS:
Bill
FIR

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2024-18

INTRODUCED BY:

Councilor Amanda Chavez

Councilor Pilar Faulkner

Councilor Lee Garcia

A BILL

RELATING TO CITY ADMINISTRATION; AMENDING SECTION 2-8, SFCC 1987 TO CHANGE THE TITLE FROM "COMMUNITY HEALTH AND SAFETY DEPARTMENT" TO "HEALTH AND HUMAN SERVICES DEPARTMENT"; REMOVE THE POLICE DEPARTMENT AND THE FIRE DEPARTMENT FROM THAT SECTION; AND CREATE TWO NEW SECTIONS, 2-8.8 AND 2-8.9, FOR THE POLICE DEPARTMENT AND FIRE DEPARTMENT, RESPECTIVELY.

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

Section 1. Section 2-8.2 of SFCC 1987 (being Ord. No. 2023-11, § 1, as amended) is amended to read as follows:

2-8.2 [~~Community Health and Safety Department~~] Health and Human Services Department.

A. *Creation of Department.* There is created a department of city government to be known as the "[~~community health and safety department~~] health and human department", which includes, but is not limited to, the [~~police department, the fire department,~~] the community services department [~~,~~] and the office of emergency management.

[~~B. ``Police Department.~~

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

~~(1) *Powers and duties generally.* Police officers shall execute and return all writs and processes directed to them by the municipal judge and, in criminal cases or cases of violations of city ordinances, they may serve the same in any part of the country. They shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons within the city and shall pursue and arrest any person fleeing from justice. They shall apprehend any person in the act of committing any offense against the laws of the state or the ordinances of the city, and forthwith bring such persons before a competent authority for examination and trial. They shall have, in the discharge of their proper duties, like powers and be subject to like responsibilities as sheriffs or constables in similar cases.~~

~~(2) *Appointment of police officers; commissions.* No person shall assume or exercise the functions, powers, duties and privileges incident or belonging to the office of municipal police officers without first having received an appointment in writing, known as a "commission", from the governing body. The advice of the chief of police shall be obtained in the employment and commissioning of all police officers of the department.~~

~~(2) *Appointment of police officers; commissions.* No person shall assume or exercise the functions, powers, duties and privileges incident or belonging to the office of municipal police officers without first having received an appointment in writing, known as a "commission", from the governing body. The advice of the chief of police shall be obtained in the employment and commissioning of all police officers of the department.~~

~~(3) *Training schools and examinations.*~~

~~(a) There shall be held and conducted at such times as may be prescribed by the chief of~~

police, with the approval of the governing body, schools for training in modern police methods and practices. The schools for training and the checking of the qualifications and general fitness of applicants for positions in the police department shall be under the direction and supervision of the chief of police.

(b) All members of the police department shall take such examinations as may be prescribed.

(c) In the taking of all written examinations there shall be assigned to each applicant a number which shall be endorsed on the applicant's examination papers, and the grading of the examinations shall be by number only.

(d) Except as otherwise provided, no member shall be retained in the police department and no applicant shall be appointed to the police department unless such member or applicant, after taking the prescribed training courses, has successfully passed the prescribed examinations, written and oral; provided, that the minimum educational qualifications required by the City Personnel Act shall not apply to members of the present police department who are otherwise qualified under the provisions hereof; provided further, that in passing on the qualifications of members of the present police department, consideration shall be given to:

(i) Length of service and faithfulness to duty; and

(ii) General aptitude for police work as disclosed by the individual records of such members to be confirmed by oral examinations.

(4) *Extra or emergency police officers.* The city manager may employ on behalf of the city such extra or emergency police officers as may be required in the proper administration of municipal affairs.

(5) *Police department reserve.*

(a) *Created.* There is created the city "police department reserve force", hereinafter referred to as the "reserve".

(b) *Control by Chief of Police.* The reserve is under the exclusive control of the chief of the city police department who shall have the sole and exclusive authority to:

(i) Summarily discipline or dismiss members without appeal to any body or tribunal;

(ii) Approve or disapprove all bylaws, rules and regulations of the reserve; and

(iii) Approve or disapprove all officers, employees or agents of the reserve.

(c) *Authority.* The reserve and its individual members shall only have authority in law enforcement on specific request by the city police chief. A specific request shall be made for each individual instance of service.

(d) *Powers and Duties.*

(i) The duties of the reserve are to assist in enforcement of law by cooperating with all law enforcement agencies and regulatory bodies.

(ii) The reserve or its members when acting upon call, and only when acting upon call, of the city police chief, for the city or for another law enforcement agency or regulatory authority, shall be possessed of the same powers and duties as a city police officer or an officer of such law enforcement agency or regulatory authority.

(e) *Call of Members.* When the city police chief calls up the members of the reserve, the call shall be in writing, list the names of each member of the reserve called, the purpose of the call, and the date and time the call begins and terminates. Except when on call, reserve members shall have no more authority in law enforcement than that of any private citizen.

(f) *Requests for Assistance.* Should any law enforcement agency or regulatory body desire assistance from the reserve, the request shall be made to the city police chief

who may authorize it, if:

(i) Reserve members are fully covered by the workman's compensation insurance policy of the assisted agency or body, and this is evidenced by a writing presented to the chief; and

(ii) Any and all liability that may arise against the city, its officers, employees or agents, the reserve, or its members as a result of such assistance, is assumed in writing by the assisted agency or body.

(g) *Worker's Compensation.* The city shall immediately take steps to provide necessary worker's compensation insurance for the reserve and necessary liability insurance covering liability that may arise against the city, its officers, employees or agents as a result of the activities of the reserve on behalf of the city. If any or a portion of such liability is to be self-insured, the self-insurance fund shall be increased accordingly.

C. *Fire Department.*

(1) *Department authority and powers.*

(a) Pursuant to Section 3-18-1F. and G. NMSA 1978 and 3-18-11B(1), the city may provide proper means for protection from fire and protect the property of its municipality and its inhabitants and preserve the health, safety, peace and order within the municipality. Therefore, the stated purpose of this subsection is to grant the fire department all authority necessary to protect life and property from the hazards created by fire, explosion, and similar emergencies.

(b) The fire department shall have full and complete authority in connection with fighting, mitigating, and preventing the spread of any fire that may arise within the city, with the power to do and perform all necessary or expedient acts for the fighting of fire. When called to a fire, the fire department shall have:

~~(i) Full and complete authority of the premises to which it has been summoned until the fire has been extinguished and the premises are deemed safe by the fire department; and~~

~~(ii) By emergency vehicle or by foot, the right of ingress and egress on all public or private streets, alleyways, roads, driveways, and thoroughfares located within the city limits or the city annexation areas.~~

~~(c) The fire department shall have full and complete authority in connection with the provision of prehospital emergency medical services within the city, with the power to do and perform all necessary or expedient acts for the provision of these services.~~

~~(d) The fire chief shall have full authority to sign agreements, approved by the city attorney's office, with landowners to implement fire hazard mitigation activities.~~

~~(2) *Department members designated as special police officers.* Every member duly enrolled and in good standing in the fire department shall be a special police officer of the city with power to act as such from the time of the sounding of any fire alarm until the apparatus and equipment for fighting fire has been returned to the fire station.~~

~~(3) *Obstructing or interfering with firefighters.* It is unlawful for any person to obstruct or interfere with firefighters while in the discharge of their duties.~~]

[~~D~~] B. *Community Services Department.* The community services department includes, but is not limited to, senior services, and libraries.

[~~E~~] C. *Office of Emergency Management.*

(1) In accordance with Section 12-10-5 NMSA 1978, the "office of emergency management," shall consist of:

(a) An emergency manager who shall be appointed in accordance with Section 12-10-5 NMSA 1978, and who shall be subject to the personnel system of the city;

(b) Additional professional and administrative personnel as may be required to effectively carry out the emergency management program; and

(c) All other city officers and employees, together with those volunteer forces enrolled to aid the city during periods of disaster or emergency.

(2) *Definitions.*

Civil emergency means conditions of unrest, including but not limited to riot, civil disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism, or sabotage.

Comprehensive emergency management plan (CEMP) means a written document that describes the city's overall emergency management plan. A CEMP specifies the purpose, organization, responsibilities, and facilities of the agencies and officials of the city in the mitigation of, preparation for, response to, and recovery from emergencies and disasters.

Curfew means a period of time declared by the mayor, during which no person or persons, other than persons authorized by the mayor by administrative order, may be upon the public streets, sidewalks, grounds, or semi-public property, either on foot or in vehicles of any type, within the city.

Disaster means the occurrence of a natural catastrophe, technological accident, or human-caused event that has resulted in environmental damage, property damage, deaths, and/or multiple injuries, which may exceed the response capability of the local jurisdiction, necessitating state, and potentially federal, involvement.

Emergency means any occasion or instance, such as a terrorist attack, terrorist threat, civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident, aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami,

war-related disaster, public health or medical emergency, other occurrence requiring an emergency response, or any other condition that warrants action to protect life, property, or the environment.

Emergency management means an approach to prevent, protect against, respond to, recover from, and mitigate the effects of incidents.

Emergency operations center (EOC) means the physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place.

Emergency plan means an ongoing plan for responding to a wide variety of potential hazards.

Hazard mitigation plan means the representation of the city's commitment to reduce risks from natural hazards, serving as a guide for decision makers as they commit resources to reducing the effects of natural hazards.

National Incident Management System (NIMS) means the federal government's standardized framework of doctrines, concepts, principles, terminology, and organizational processes for emergency management.

(3) *Purpose.*

(a) The purpose of the office of emergency management is to coordinate the efforts of all municipal agencies and employees, nongovernmental agencies, and private sector partners to prepare for and function in the event of disasters and emergencies endangering the lives of persons in the city, property of the residents of the city, or public property in the city.

(b) The duty of the office of emergency management is to coordinate the development of

emergency plans for the effective employment of municipal resources to protect the lives and health of the residents of the city and the private and public property therein from the effects of emergencies or natural or man-caused disasters.

(c) The office of emergency management shall coordinate the implementation of such plans in preparation for, during, and after periods of emergency or disaster. Such plans shall be coordinated with those of the county and in consonance with the state emergency management plans.

(d) The office of emergency management and safety shall ensure that the safety of all city employees is a priority throughout the city's operations and coordinate and oversee safety protocols and implementation for the city.

(4) *Emergency manager*. The emergency manager shall:

(a) Be responsible to the director of community health and safety for the organization, administration, and operation of the emergency management program of the city;

(b) Coordinate the emergency management activities of all municipal departments and agencies of the city, nongovernmental agencies, and private sector partners;

(c) Be the liaison and cooperate with the emergency management agencies of the federal government, the state, the county, and the other political subdivisions therein;

(d) Develop an organizational structure for the office of emergency management, subject to the approval of the governing body and recommend appointments to fill the positions established therein subject to the city manager's authority;

(e) Manage the EOC; establish the overall structure, roles, responsibilities, and direction for the operation of the EOC; and ensure that the EOC is appropriately sited, staffed, equipped, and maintained;

(f) Maintain written emergency plans, including but not limited to all chapters, annexes, and appendices of the comprehensive emergency management plan and hazard

mitigation plan, and annually review the plans to identify any recommendations for revisions; and

(g) Maintain records documenting compliance with requirements of federal and state emergency management programs, including the NIMS.

(5) *Financing.*

(a) Funds for necessary expenses of the office of emergency management, including salaries for approved positions, may be made available through appropriations by the governing body in accordance with Section 12-10-7 NMSA 1978.

(b) The emergency manager shall prepare and submit to the governing body an annual proposed budget for emergency management expenditures and shall indicate those amounts eligible for matching funds under the federal grant programs.

(c) During an emergency, purchases may be exempt from the city's procurement code, as permitted pursuant to Section 11-13 SFCC 1987.

Section 2. [NEW SECTION] Creating Section 2-8.8 of SFCC 1987, retaining language from current Section 2-8.2 (B) (being Ord. No. 2023-11, § 1 as amended), to read as follows:

2-8.8 - Police Department.

(1) *Powers and duties generally.* Police officers shall execute and return all writs and processes directed to them by the municipal judge and, in criminal cases or cases of violations of city ordinances, they may serve the same in any part of the country. They shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons within the city and shall pursue and arrest any person fleeing from justice. They shall apprehend any person in the act of committing any offense against the laws of the state or the ordinances of the city, and forthwith bring such persons

before a competent authority for examination and trial. They shall have, in the discharge of their proper duties, like powers and be subject to like responsibilities as sheriffs or constables in similar cases.

(2) *Appointment of police officers; commissions.* No person shall assume or exercise the functions, powers, duties and privileges incident or belonging to the office of municipal police officers without first having received an appointment in writing, known as a "commission", from the governing body. The advice of the chief of police shall be obtained in the employment and commissioning of all police officers of the department.

(3) *Training schools and examinations.*

(a) There shall be held and conducted at such times as may be prescribed by the chief of police, with the approval of the governing body, schools for training in modern police methods and practices. The schools for training and the checking of the qualifications and general fitness of applicants for positions in the police department shall be under the direction and supervision of the chief of police.

(b) All members of the police department shall take such examinations as may be prescribed.

(c) In the taking of all written examinations there shall be assigned to each applicant a number which shall be endorsed on the applicant's examination papers, and the grading of the examinations shall be by number only.

(d) Except as otherwise provided, no member shall be retained in the police department and no applicant shall be appointed to the police department unless such member or applicant, after taking the prescribed training courses, has successfully passed the prescribed examinations, written and oral; provided, that the minimum educational

qualifications required by the City Personnel Act shall not apply to members of the present police department who are otherwise qualified under the provisions hereof; provided further, that in passing on the qualifications of members of the present police department, consideration shall be given to:

(i) Length of service and faithfulness to duty; and

(ii) General aptitude for police work as disclosed by the individual records of such members to be confirmed by oral examinations.

(4) *Extra or emergency police officers.* The city manager may employ on behalf of the city such extra or emergency police officers as may be required in the proper administration of municipal affairs.

(5) *Police department reserve.*

(a) *Created.* There is created the city "police department reserve force", hereinafter referred to as the "reserve".

(b) *Control by Chief of Police.* The reserve is under the exclusive control of the chief of the city police department who shall have the sole and exclusive authority to:

(i) Summarily discipline or dismiss members without appeal to any body or tribunal;

(ii) Approve or disapprove all bylaws, rules and regulations of the reserve; and

(iii) Approve or disapprove all officers, employees or agents of the reserve.

(c) *Authority.* The reserve and its individual members shall only have authority in law enforcement on specific request by the city police chief. A specific request shall be made for each individual instance of service.

(d) *Powers and Duties.*

(i) The duties of the reserve are to assist in enforcement of law by cooperating with all law enforcement agencies and regulatory bodies.

(ii) The reserve or its members when acting upon call, and only when acting upon call, of the city police chief, for the city or for another law enforcement agency or regulatory authority, shall be possessed of the same powers and duties as a city police officer or an officer of such law enforcement agency or regulatory authority.

(e) *Call of Members.* When the city police chief calls up the members of the reserve, the call shall be in writing, list the names of each member of the reserve called, the purpose of the call, and the date and time the call begins and terminates. Except when on call, reserve members shall have no more authority in law enforcement than that of any private citizen.

(f) *Requests for Assistance.* Should any law enforcement agency or regulatory body desire assistance from the reserve, the request shall be made to the city police chief who may authorize it, if:

(i) Reserve members are fully covered by the workman's compensation insurance policy of the assisted agency or body, and this is evidenced by a writing presented to the chief; and

(ii) Any and all liability that may arise against the city, its officers, employees or agents, the reserve, or its members as a result of such assistance, is assumed in writing by the assisted agency or body.

(g) *Worker's Compensation.* The city shall immediately take steps to provide necessary worker's compensation insurance for the reserve and necessary liability insurance covering liability that may arise against the city, its officers, employees or agents as a result of the activities of the reserve on behalf of the city. If any or a portion of such liability is to be self-insured, the self-insurance fund shall be increased accordingly.

Section 3. [NEW SECTION] Creating Section 2-8.9 of SFCC 1987, retaining

language from current Section 2-8.2 (C) (being Ord. No. 2023-11, § 1 as amended), to read as follows:

2.8.9 - Fire Department.

(1) *Department authority and powers.*

(a) Pursuant to Section 3-18-1F. and G. NMSA 1978 and 3-18-11B (1), the city may provide proper means for protection from fire and protect the property of its municipality and its inhabitants and preserve the health, safety, peace and order within the municipality. Therefore, the stated purpose of this subsection is to grant the fire department all authority necessary to protect life and property from the hazards created by fire, explosion, and similar emergencies.

(b) The fire department shall have full and complete authority in connection with fighting, mitigating, and preventing the spread of any fire that may arise within the city, with the power to do and perform all necessary or expedient acts for the fighting of fire. When called to a fire, the fire department shall have:

(i) Full and complete authority of the premises to which it has been summoned until the fire has been extinguished and the premises are deemed safe by the fire department; and

(ii) By emergency vehicle or by foot, the right of ingress and egress on all public or private streets, alleyways, roads, driveways, and thoroughfares located within the city limits or the city annexation areas.

(c) The fire department shall have full and complete authority in connection with the provision of prehospital emergency medical services within the city, with the power to do and perform all necessary or expedient acts for the provision of these services.

(d) The fire chief shall have full authority to sign agreements, approved by the city

attorney's office, with landowners to implement fire hazard mitigation activities.

(2) *Department members designated as special police officers.* Every member duly enrolled and in good standing in the fire department shall be a special police officer of the city with power to act as such from the time of the sounding of any fire alarm until the apparatus and equipment for fighting fire has been returned to the fire station.

(3) *Obstructing or interfering with firefighters.* It is unlawful for any person to obstruct or interfere with firefighters while in the discharge of their duties.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2025.

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2024/Bills/Public Safety Administration

FIR No. 10617.0

FISCAL IMPACT REPORT

General Information:

(Check) **Bill:** X **Resolution:** _____

Short Title(s): Public Safety Administration

Sponsor(s): Councilor Amanda Chavez, Councilor Pilar Faulkner, and Councilor Lee Garica

Reviewing Department(s): City Attorney's Office

Staff Completing FIR: Marci Eannarino, Legislation and Policy Innovation Manager

Date: 12/02/2024 **Phone:** (505) 955-6518

Reviewed by City Attorney: _____ **Date:** Dec 6, 2024

Reviewed by Finance Director: Emily K. Oster **Date:** Dec 6, 2024

Summary:
The proposed bill would amend SFCC 1987, Section 2-8.2 and create Sections 2-8.8 and 2-8.9. The Amendment to Section 2-8.2 would change the name of that Section from "Community Health and Safety Department" to the "Health and Human Services Department" and remove the subsections regarding the City of Santa Fe Police Department ("Police Department") and the City of Santa Fe Fire Department ("Fire Department"). The subsections regarding the Fire Department and the Police Department would be moved into the two newly created Sections: 2-8.8, "City of Santa Fe Police Department" and 2-8.9, "City of Santa Fe Fire Department".

Departments Affected:
Community Health and Safety Department, Fire Department, and Police Department.

Consequences of Not Enacting Legislation:
If this legislation is not adopted, the City's Administration chapter of code would continue to include a Community Health and Safety Department rather than and Health and Human Services Department and would continue to list the Police and Fire Departments as part of the Community Health and Safety Department.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
Ordinance No. 2020-22 established the Community Health and Safety Department and described that it had five divisions: the Community Services Department, Police Department, Fire Department, Recreation Division, and the Office of Emergency Management and Safety.
Ordinance No. 2023-11 later revised the section of code regarding the Community Health and Safety Department by removing language prescribing a "Recreation Division" as one of its divisions and by listing the Family and Youth Services as a component of the Community Services Department. It also removed the term "Safety" from the Office of Emergency Management and Safety to make it "Office of Emergency Management".

Performance and Administrative Implications:
If the Bill is adopted, the City would have a department called "Health and Human Services". In addition, the City's code would no longer prescribe that the Fire Department and the Police Department be in the same department with the Community Services Department and the Office of Emergency Management Department.

Fiscal Implications:
None.

Fiscal Impact

___X___ Check here if no fiscal impact

Expenditures

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

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

Expenditure Narrative:

Revenue

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

Revenue Narrative:

Signature: Marci Eannarino

Email: maeannarino@santafenm.gov

SANTA FE NEW MEXICAN

Founded 1849

CITY OF SANTA FE-MAIN
PO Box 909
Santa Fe, NM 87504-0909

ACCOUNT:	S2460
AD NUMBER:	90391
TAG LINE	LEGAL # 93570
P.O.#:	City Clerk

1 TIME(S)	$87.04
AFFIDAVIT	10.00
TAX	7.95
TOTAL	104.99

AFFIDAVIT OF PUBLICATION

STATE OF NEW MEXICO
COUNTY OF SANTA FE

I, Alejandra Molina, being first duly sworn declare and say that I am Legal Advertising Representative of THE SANTA FE NEW MEXICAN, a daily newspaper published in the English language, and having a general circulation in the Counties of Santa Fe, Rio Arriba, San Miguel, and Los Alamos, State of New Mexico and being a newspaper duly qualified to publish legal notices and advertisements under the provisions of Chapter 167 on Session Laws of 1937; that the Legal No 93570 a copy of which is hereto attached was published in said newspaper 1 day(s) between 02/12/2025 and 02/12/2025 and that the notice was published in the newspaper proper and not in any supplement; the first date of publication being on the 12th day of February, 2025 and that the undersigned has personal knowledge of the matter and things set forth in this affidavit.

ISI _____
LEGAL ADVERTISEMENT RESPRESENTATIVE

Subscribed and sworn to before me on this 12th day of February, 2025

Notary Susan Larine Cahoon

Commission Expires: 11/5/2028

State of New Mexico
Notary Public
Susan Larine Cahoon
Commission Number 1132046
Expiration Date 11/5/2028

LEGAL # 93570

CITY OF SANTA FE
NOTICE OF PUBLIC HEARING

Notice is hereby given that the Governing Body of the City of Santa Fe will hold a public hearing at their regular Governing Body Meeting at 7:00 p.m. on Wednesday, February 26, 2025.

The purpose of the public hearing will be to consider the following:

BILL 2024-18. A Bill Relating to City Administration; Amending Section 2-8, SFCC 1987 to Change the Title From "Community Health and Safety Department" to "Health and Human Services Department"; Remove the Police Department and the Fire Department from that Section; and Create Two New Sections, 2-8.8 and 2-8.9, for the Police Department and Fire Department, Respectively.

This bill is available in its entirety on the City's web site http://www.santafenm.gov (click on Departments/City Attorney/Legislative Services) or upon request and payment of a reasonable charge, in the City Clerk's Office, City Hall, 200 Lincoln Avenue, from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Interested parties may view the meeting on the City's YouTube Channel: https://www.youtube.com/user/cityofsantafe. An agenda with complete information about meeting attendance and instructions to provide live public comment will be posted on the City's website no later than seventy-two (72) hours before the meeting: https://santafenm.portal.civicclerk.com/.

The Governing Body shall review and consider all public input prior to taking action.

/s/Andréa Salazar,
City Clerk/Director of Community Engagement

Pub.: Feb. 12, 2025