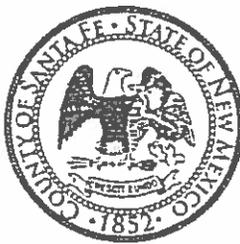


Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

TO: Board of County Commissioners

FROM: Carole Jaramillo, Finance Director *CJ* *KEM*

DATE: December 30, 2015

SUBJECT: Approval of Audited Comprehensive Annual Financial Report for FY 2015

ISSUE:

Pursuant to Section 2.2.2.10 J. (3) (d) of 2.2.2 NMAC *Requirements for Contracting and Conducting Audits of Agencies*, it is required that the financial audit report be presented to the Board of County Commissioners at a public meeting for approval.

BACKGROUND AND SUMMARY:

Santa Fe County has completed its fiscal year 2015 Comprehensive Annual Financial Report (CAFR). Included in this report are the results of the annual audit. Santa Fe County engaged in a contract with Axiom Certified Public Accountants to conduct the annual audit of the County's financial statements for the fiscal year ending June 30, 2015. As part of the required annual audit, our auditors issued three reports as listed below:

1. Independent Auditor's Report (pages 12-14)
2. Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards (pages 248-249)
3. Independent Auditor's Report on Compliance for Each Major Program and on Internal Control Over Compliance Required by OMB Circular A-133 (pages 250-251)

A summary outlining the audit results consists of the following:

- ❖ The independent auditor's reports expressed an unmodified or "clean" opinion on the financial statements and on compliance requirements for the major federal award programs of the County.

- ❖ The Schedule of Findings and Questioned Costs (pages 254-257) disclosed one finding for fiscal year 2015. Complete details of the finding and the County's response may be found on page 255 and is summarized as follows:

2015-001 – Clerks Office Cash Receipts (Significant Deficiency)

Summary & Response

The auditors identified three cash receipt processes at the Clerk's Office that could be improved to strengthen internal controls. The cash receipt processes identified for improvement were that cash receipts are kept in each cashier's desk and the desks do not lock, two computers running the Clerk Track software system to log payments do not require each cashier to log in each time they enter a transaction and the end of day compiled cash count could be counted by someone who acted as a cashier for that day. The Clerk's Office staff will update and develop desk procedures to ensure that there is adequate physical security of cash collected and that a cash count at the end of the day is performed by a staff person not responsible for receiving cash. The Clerk's Office staff will also analyze the Clerk Tack software system to determine what protocols can be implemented to identify individual user transactions.

- ❖ During fiscal year 2015, the County resolved all four prior year findings. The following is a list of prior year findings that were eliminated during the current fiscal year:

1. 2013-001 Prior Period Adjustment
2. 2013-002 Payroll Disbursements Transaction Cycle
3. 2014-001 Special Tests – Public Indian Housing Grant
4. 2014-002 Procurement

- ❖ Governmental activities net position at June 30, 2014 was restated in the net amount of approximately \$56.7 million and Enterprise activities net position at June 30, 2014, was restated in the net amount of approximately \$1.7 million as a result of implementation of GASB 68, *Accounting and Financial Reporting for Pensions – an amendment of GASB statement No. 27*. GASB 68 implementation also resulted in a net pension liability of approximately \$48.3 million at June 30, 2015 and a change in net pension liability of approximately \$1.7 million for the year ended June 30, 2015.

REQUESTED ACTION:

The Finance Division hereby requests acceptance and approval of Santa Fe County's audited CAFR for the fiscal year ending June 30, 2015.

Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: November 25, 2015

TO: Board of County Commissioners

FROM: Michael Kelley, Public Works Director

VIA: Katherine Miller, County Manager

KM
1.5.16

ITEM AND ISSUE: BCC Meeting January 12, 2016
Request Approval of Amendment No. 1 to the Lease Agreement and Access Easement
between Santa Fe County and the Jacona Land Grant Association. (Public Works/Robert
Martinez)

SUMMARY:

The purpose of this amendment is to modify the parcel of property the County is currently leasing from the Jacona Land Grant Association (JLGA) for the purpose of a solid waste collection center. The parcel modification also requires an access easement for access to the collection center.

BACKGROUND:

On August 26, 2014, the Board of County Commission approved a lease agreement between the JLGA and the County for the lease of property located in Jacona for a new solid waste collection center. Riskin and Associates Architecture was contracted to design the solid waste collection center on February 27, 2015, which has been completed. A driveway permit is required from the NMDOT, because the access to this property is from NM 502. On November 3, 2015, the NMDOT approved the driveway permit, but required the JLGA to abandon their existing driveway and share the new driveway/access with the collection center. Due to this requirement, the JLGA is requesting the leased parcel be modified, so the property immediately off of NM 502 is not part of the lease. The parcel has been resurveyed modifying the leased property. Additional acreage has been added to the southern portion of the leased property, so the acreage of the lease remains the same. Also, an ingress/egress easement has been granted to the County for access to the collection center on the revised survey plat and attached access easement document.

ACTION REQUESTED:

The Public Works Department requests approval of Amendment No. 1 to the lease agreement by replacing the existing Exhibit "A" with the new survey, labeled as Exhibit "A-1" and approval of the access easement.

AMENDMENT NO. 1 TO
LEASE AGREEMENT
BETWEEN SANTA FE COUNTY
AND
JACONA LAND GRANT ASSOCIATION

THIS AMENDMENT is made and entered into on the _____ day of _____, 201__ by and between Santa Fe County, hereinafter "Lessee", and the Jacona Land Grant Association, hereinafter the "Lessor".

WHEREAS, the Lessor and Lessee entered into a Lease Agreement No. 2014-0287-PW/MS dated September 1, 2014 (the Lease), wherein the Lessor agreed to lease 19.6324± of real property at 1540 NM 502, to the Lessee specifically described in the Lease by reference to "Exhibit A"; and

WHEREAS, the purpose of the Lease is for the Lessee to construct, operate and maintain a solid waste transfer station, open space recreational site, and fire station for use by the public; and

WHEREAS, as part of the design and plan for the solid waste transfer station off of NM 502, the State of New Mexico Department of Transportation (NMDOT) requires Lessor to abandon an existing driveway/ access road and develop a new access to Lessor's land grant property through the same driveway/access as Lessee will use for solid waste transfer station, Lessor also needs an additional setback from NM 502; and

WHEREAS, for Lessor to conform to NMDOT requirements, the Lessor and Lessee have agreed to adjust and resurvey the boundaries of the leased premises to allow an additional setback for the Lessor and compensate for any reduction in acreage by increasing the acreage on the south side of the lease. The boundary adjustment will not increase or decrease the total acreage of the leased premises or the amount of Lessee's lease payment, but the description in Exhibit A needs to be replaced with an accurate description of the adjusted boundary of the leased premises; and

WHEREAS, according to Article 24 (Amendments) of the Lease, the Lease may be amended by an instrument in writing executed by the Lessee and Lessor; and

WHEREAS, the Lessor and Lessee wish to amend the Lease to replace Exhibit A, a metes and bounds description and survey plat of the leased premises, with a new Exhibit A-1, a metes and bounds description and survey plat of the adjusted leased premises after the change in the boundaries of the leased premises described above.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. "Exhibit A" referenced in Lease Agreement 2014-0287-PW/MS is replaced and superseded by the revised metes and bounds description and survey of the leased premises, attached hereto

and labeled "Exhibit A-1" and titled "Lease Parcel - The Cooperative Association of the Jacona Grant" and "County of Santa Fe."

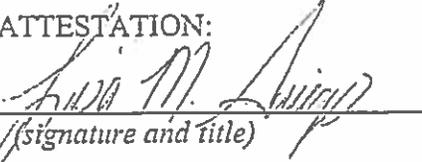
2. All references to "Exhibit A" in Agreement No. 2014-0287-PW/MS shall be replaced with "Exhibit A-1."

3. All other provisions of Lease Agreement No. 2014-0287-PW/MS not specifically amended by this Amendment No. 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 as of the date first written above.

LESSOR – JACONA LAND GRANT ASSOCIATION

 Date: 12/29/15
Paul Ortiz
President of the Jacona Land Grant Association

ATTESTATION:
 Date: 12/29/15
(signature and title)

LESSEE - SANTA FE COUNTY

_____ Date: _____
Chair
Santa Fe Board of County Commissioners

ATTESTATION:

Geraldine Salazar
Santa Fe County Clerk

Approved as to form:

Gregory S. Shaffer
County Attorney

Approved by:

Finance Department

Carole H. Jaramillo
Director

Date: _____

EXHIBIT A-1

Brian K. McClintock, N.M.P.S. #11597
New Mexico Professional Surveyor
c/o - BLUELINE CONSTRUCTION, INC.
P.O. Box 28666, Santa Fe, New Mexico 87592-8666
505.216.7909/office
bkm@bluelinenm.com

LEASE PARCEL – "The Cooperative Association of the Jacona Grant" and "County of Santa Fe"

A Parcel of land for Lease, lying within the Jacona Grant, projected Section 15, T.19 N., R.8 E., N.M.P.M., Santa Fe County, New Mexico and being more particularly described as follows:

Beginning at a point on the Northwest corner (POB) of the herein described lease parcel, being a No.4 rebar set (NMPS #11597), also being a point located on the westerly Jacona Grant line common to the easterly San Ildefonso Pueblo Grant line from which point a NMDOT right of way brass monument for NM State Road 502, stamped "STA.134+27.75, L.S.#5221", bears N.00°09'46"W. a distance of 101.97 feet; thence continuing along said common grant line, N.00°09'54"W. a distance of 1148.38 feet to a U.S.G.L.O brass monument, stamped "U.S.G.L.O., T.19N., R.8E., CC S10/S15, 1914";

Thence from said Northwest corner, point of beginning (POB), S.78°53'35"E., a distance of 486.27 feet to an angle point on the said lease parcel, being a No. 4 rebar set (NMPS #11597), Thence S.24°32'13"E., a distance of 160.65 feet to an angle point on the said lease parcel, being a No. 4 rebar set (NMPS #11597), Thence N.65°27'47"E., a distance of 98.29 feet to an angle point on the said lease parcel, being a No. 4 rebar set (NMPS #11597), Thence S.88°36'13"E., a distance of 211.10' to the Northeast lease parcel corner, being a No. 4 rebar set (NMPS #11597), from which corner a NMDOT right of way brass monument for NM State Road 502, stamped "STA.245+37.30, LS #5221", bears N.69°07'59"E., a distance of 259.98 feet, also from said Northeast lease parcel corner a GPS plastic control monument, stamped "Metes and Bounds", bears N.18°28'18"E., a distance of 323.20 feet; Thence from said Northeast lease corner S.27°42'58"E. a distance of 144.79 feet to an angle point on the said lease parcel, being a No. 4 rebar set (NMPS #11597); Thence S.00°56'39"W., a distance of 731.70 feet to the Southeast lease parcel corner, being a No.4 rebar set (NMPS #11597), from which corner a Santa Fe County Control monument, SF-17, bears N.82°14'03"E., a distance of 4832.92 feet, also from said Southeast lease parcel corner a U.S.G.L.O. brass monument, stamped "U.S.G.L.O., T.19N., R.8E., JG, S14/S23, 1929" bears S.33°05'06"E., a distance of 4003.66 feet; Thence from said Southeast lease corner S.89°17'42"W. a distance of 896.63 feet to the southwest lease parcel corner, being a U.S.G.L.O. brass monument, stamped "U.S.G.L.O., T.19N, R.8E., SIPG, 1M/S15, 1914", also being a point on the grant line common to the Jacona Grant and the San Ildefonso Pueblo Grant, from which point another U.S.G.L.O. brass monument stamped "U.S.G.L.O., T.19N., R.8E., SIPG, ½ M, S15, 1914", bears S.00°10'33"E. a distance of 2632.26 feet; Thence from said Southwest lease corner N.00°09'46"W., along said common grant line, a distance of 1074.96 feet to the Northwest lease parcel corner, being the said point and place of beginning.

Said lease parcel described above contains: 855,185.91 sq.ft. (19.6324 acres) more or less.

Brian K. McClintock

Brian K. McClintock

NMPS # 11597



ACCESS EASEMENT

The Jacona Land Grant Association ("Grantor") with an address of P.O. Box 3769, 11 West Gutierrez, Santa Fe, NM 87506, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged enters into this easement with Santa Fe County, New Mexico ("County"), a political subdivision of the state of New Mexico, 102 Grant Avenue, Santa Fe, New Mexico 87504, its successors and assigns, related to a non-exclusive easement running with the land described in Exhibit "A" (the "Property") on, over and across portions of Section 15, T19N, R8E, N.M.P.M. for ingress and egress from State Road 502 to Lease Parcel "A" as depicted on Exhibit A attached hereto.

RECITALS

- A. The Grantor is the owner of the property depicted as the "Ingress and egress Easement Description" on the attached Exhibit A and hereinafter referred to as the "Property," consisting of \pm .5358 acres.
- B. The Grantor intends to grant an easement on the Property to the County for the purposes of construction and use of an access road to be used for ingress and egress to property leased to the County by the Grantor, subject to Grantor's rights hereunder.
- C. As consideration for the Grantor's grant of this access easement, the County will construct a road connecting the County's access road to an existing road located on property belonging to the Grantor.

EASEMENT

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confirmed by the Grantor and the County, the Grantor and Grantee agree as follows:

1. Recitations. The recitals set forth above in this easement agreement are incorporated herein for all purposes.
2. Grant and Authorized Purposes. Subject to the terms, conditions and provisions of this easement and without any express or implied warranties other than as may be contained in this instrument, the Grantor hereby grants to the County a non-exclusive easement in the Property, to construct a road to access property the County leases from Grantor, install any necessary utilities related to the construction and operation of a solid waste transfer station and for all other purposes related to access by the County over and across the Property. The County shall fence the boundary of the easement and install or construct a gate and a road apron within the easement. As consideration for this grant of easement the County will also construct a road

to connect the access road to an existing road that is located on Grantor's property and is outside the boundary of the easement. Provided, however, that the rights granted herein shall in no way restrict any rights or interests of the Grantor in the Property.

3. Term. The term of this easement shall be for as long as the County or its successor or assigns has an interest in Lease No. 2014-0287-PW/MS dated September 1, 2014, between the Jacona Land Grant Association and Santa Fe County for the operation and maintenance of a solid waste transfer station, open space recreational area, fire station or other authorized purposes agreed to by the Jacona Land Grant Association and the County.

4. Construction and Maintenance. The County shall construct and maintain the easement and the road from State Highway 502 to Lease No. 2014-0287-PW/MS. The portion of the road that is on New Mexico Department of Transportation right of way off Highway 502 will be constructed in conformity with NMDOT requirements at 18.31.6 NMAC "State Highway Access Management Requirements" and as provided in NMDOT letter dated November 3, 2015 (Permit #5-Drive-038-2015 US 502 Milepost 15 -16).

5. Interpretation. In the event of any dispute over its meaning or application, this grant of easement shall be interpreted fairly and reasonably and neither more strongly for or against either party.

6. Applicable Law. This grant of easement shall be governed by the laws of the State of New Mexico. If the final judgment of a court of competent jurisdiction invalidates any part of this easement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the Grantor and the County as evidenced by this easement.

7. Covenant Running with Land. This easement and all of the rights, title, interests and covenants herein shall run with the property; and shall inure to and bind the successors and assigns of the Grantor and the County.

8. Written Amendment Only. This is the complete agreement of the Grantor and the County with regard to the subject matter hereof. This Easement will not be amended except by a written document signed by the parties hereto.

9. Counterparts. This easement may be executed in several counterparts, each of which shall be deemed an original; further the signature of the parties hereto on this easement may be executed and notarized on separate pages, and when attached to this easement shall constitute one complete document.

10. Authority. This grant of easement has been duly authorized by the Jacona Land Grant Association and the individual executing this grant of easement has authority to do so.

Executed by the parties to be effective as of the ____ day of _____, 2015.

Gregory S. Shaffer
Santa Fe County Attorney

Finance Department

Date _____

Carol H. Jaramillo
Finance Director

Date _____

EXHIBIT A

Brian K. McClintock, N.M.P.S. #11597

New Mexico Professional Surveyor

c/o - BLUELINE CONSTRUCTION, INC.

P.O. Box 28666, Santa Fe, New Mexico 87592-8666

505.216.7909/office

bkm@bluelinenm.com

INGRESS & EGRESS EASEMENT DESCRIPTION

An easement serving Lease Parcel "A" for the intended purpose of ingress and egress over a portion of the Jacona Grant, from New Mexico State Road 502 to Lease Parcel "A", said easement lying within the Jacona Grant, projected Section 15, T.19 N., R.8 E., N.M.P.M., Santa Fe County, New Mexico and being more particularly described as follows:

Beginning at a point on the Northwest corner (POB) of the herein described easement, also being a point located on the southerly right-of-way line of New Mexico State Road 502, from which point a NMDOT right of way brass monument for NM State Road 502, stamped "STA.134+27.75, L.S.#5221", bears N.78°53'35"W. a distance of 468.20 feet;

Thence from said Northwest corner, point of beginning (POB), coincident with the said southerly right-of-way line S.78°53'35"E., a distance of 53.76 feet to an angle point on the said easement, from which point a NMDOT right of way brass monument for NM State Road 502, stamped "STA.245+37.30, L.S.#5221", bears S.78°53'35"E. a distance of 586.36 feet; Thence leaving said southerly right-of-way line S.10°59'28"W., a distance of 19.03 feet to an angle point on the said easement; Thence S.51°25'17"E., a distance of 66.31 feet to an angle point on the said easement; Thence S.24°32'13"E., a distance of 158.11 feet to a point on the northerly line of Lease Parcel "A"; Thence coincident with the said Lease Parcel line S.65°27'47"W. a distance of 90.00 feet to an angle point on the said lease parcel, being a No. 4 rebar set (NMPS #11597); Thence continuing coincident with the said Lease Parcel line N.24°32'13"W., a distance of 160.65 feet to an angle point on the said lease parcel, being a No.4 rebar set (NMPS #11597); Thence continuing coincident with the said Lease Parcel line N.78°53'35"W. a distance of 55.54 feet to an angle point on the said easement; Thence leaving the said Lease Parcel line N.10°59'28"E., a distance of 85.15 feet to an angle point on the said easement; Thence N.61°07'49"E., a distance of 23.11 feet to the said southerly right-of-way line of New Mexico State Road 502, being the said point and place of beginning.

Said easement described above contains: 23,339.8 sq.ft. (0.5358 acres) more or less.

Brian K. McClintock

Brian K. McClintock

NMPS # 11597



Interested Acquaintances:
 PAUL JACKSON, JR., Surveyor, 1000 N. 1st St., Phoenix, Arizona, is hereby notified that the Survey of the above described land was completed by the Surveyor on the 15th day of January, 1964, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

Witnesses:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

APPROVED:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

APPROVED:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

APPROVED:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

PUBLIC NOTICE:
 All persons who have any claims or interests in the above described land are hereby notified that the Survey of the above described land was completed by the Surveyor on the 15th day of January, 1964, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

LEGEND:
 (1) Survey line
 (2) Survey boundary
 (3) Survey monument
 (4) Survey point
 (5) Survey station
 (6) Survey line
 (7) Survey boundary
 (8) Survey monument
 (9) Survey point
 (10) Survey station

SCALE: 1" = 150'
 NORTH
 MAGNETIC

BOUNDARY SURVEY
 (Survey of the boundary of the above described land)
 COUNTY OF SANTA FE
 PREPARED FOR THE
 SURVEYOR OF SANTA FE
 COUNTY, NEW MEXICO



DATE	15	15	15	15	15	15	15	15	15
SECTION	15	15	15	15	15	15	15	15	15
TOWNSHIP	15	15	15	15	15	15	15	15	15
RANGE	15	15	15	15	15	15	15	15	15
COUNTY	SANTA FE								
STATE	NEW MEXICO								

APPROVED:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

APPROVED:
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APPROVED:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

APPROVED:
 I, the undersigned, being a duly qualified Surveyor in and for the State of Arizona, do hereby certify that the above described land was surveyed and located in accordance with the laws of the State of Arizona, and that the Survey is now open for public inspection at the Surveyor's Office, 1000 N. 1st St., Phoenix, Arizona, from 9:00 a.m. to 5:00 p.m. on each day of the week, except on Sundays and public holidays.

**LEASE AGREEMENT
BETWEEN SANTA FE COUNTY AND
THE JACONA LAND GRANT ASSOCIATION**

This LEASE AGREEMENT (hereinafter "Lease") is made and entered into this first day of September, 2014, by and between the Jacona Land Grant Association (hereinafter "Lessor"), and Santa Fe County, a political subdivision of the State of New Mexico, (hereinafter "Lessee"), for the purpose of leasing real property for the purpose of constructing, operating, and maintaining a solid waste transfer station, open space recreational site, and fire station for use by the public. Lessor, for and in consideration of the Lease payment and the payment of taxes as provided herein to be paid by the Lessee, during the Term (as defined below), leases that certain premises located in the County of Santa Fe, State of New Mexico, described on Exhibit "A" attached hereto and by reference incorporated herein, consisting of nineteen (19) acres ± of real property, located at 1540 New Mexico 502, Santa Fe County, New Mexico (hereinafter the "Property").

1. Definitions as used in this Lease:

"Solid Waste Transfer Station" means a New Mexico Environment Department-registered or -permitted solid waste facility that collects and consolidates solid waste or recyclable materials in large containers or vehicles for transfer to another Solid Waste Transfer Station or facility and includes a "convenience center" that accepts solid waste from residential solid waste or commercial waste generators.

"Open Space Recreational Site" means hard or soft surface trails, bike paths, horse trails, picnic shelters, parking lots, trail heads, playgrounds and other appurtenant structures for public recreational outdoor use located within the boundary of the Property.

"Fire Station" means a facility and appurtenant structures and access ways used for the housing of fire apparatus and fire personnel.

"Hazardous Substance" means any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Property, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Property, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, by-products or fractions thereof.

"Reportable Use" means (i) the installation or use of any above or below ground storage tank, and/or (ii) the generation, possession, storage, use, transportation, or disposal of Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with any governmental authority.

"Consumer Price Index for All Urban Consumers" or "CPI-U" means the Consumer Price Index for All Urban Consumers, not seasonally adjusted, and published by the US Department of Labor.

10-21-14
S.S.
10/17/14

2. **Term:** The term of this Lease (hereinafter "Term") shall be for a period of twenty-five (25) years, beginning on the 1 day of September, 2014, and ending on the 1 day of September, 2039. Lessee and Lessor may mutually agree to extend the Term upon the expiration of the initial Term for another twenty-five (25) years, or such other shorter duration of Term as they may agree.

3. **Condition of the Property upon Commencement of the Term:** Lessee accepts the Property "as is" in its present state and condition without any representation or warranty by Lessor as to the condition of the Property, including excavations, impediments or the suitability of the Property for Lessee's planned use as a Solid Waste Transfer Station and future Open Space Recreational Site. Lessor makes no representations or warranties pertaining to the former dump site located on the Property.

4. **Use of the Property:** Lessee shall use the Property to immediately construct and operate a Solid Waste Transfer Station and at a later time design and construct an Open Space Recreational Site and a Fire Station. Any planned use of the Property not otherwise authorized by this Lease, shall be approved by Lessor in writing at least six (6) months prior to commencement of the design and construction of such additional or other use(s).

A. At the commencement of the design of the Solid Waste Transfer Station and prior to any construction activities, Lessee shall inform Lessor of Lessee's design and construction plans for the Transfer Station. Lessee shall obtain Lessor's concurrence of the Lessee's design and location of the Solid Waste Transfer Station prior to Lessee's commencement of any construction of the Solid Waste Transfer Station.

B. Requirements and conditions for use and management of the Property.

(1) **Roads.** If Lessee builds any roads on the Property such roads shall be paved and maintained by the Lessee in good, usable condition throughout the Lease Term. Lessor shall be permitted to use such roads freely throughout the Lease Term.

(2) **Solid Waste Transfer Station.** Lessee shall operate and maintain the Solid Waste Transfer Station in good condition, prevent overfills of trash and debris onto adjacent property, maintain weed and brush control, prevent fire hazards and maintain and adhere to the standards for the operation and maintenance of a Transfer Station of the State of New Mexico Environment Department and any other regulating entity. Lessee shall fence and maintain such fence around the Solid Waste Transfer Station to contain debris. Lessee shall maintain friendly relations with residents and owners of adjacent property and shall timely address any issues regarding Lessee's use of the Property or the operation of the Solid Waste Transfer Station that are brought to Lessee's attention by the Lessor or owners or residents of adjacent properties.

(3) Open Space Recreational Site. When Lessee is prepared to allocate resources to the design and construction of the Open Space Recreational Site Lessee shall inform Lessor of Lessee's design and construction plans for the Open Space Recreational Site. Lessee shall obtain Lessor's concurrence of the Lessee's design and location of the Open Space Recreational Site prior to Lessee's commencement of any construction of the Open Space Recreational Site.

(4) Fire Station. When Lessee is prepared to allocate resources to the design and construction of the Fire Station Lessee shall inform Lessor of Lessee's design and construction plans for the Fire Station. Lessee shall obtain Lessor's concurrence of the Lessee's design and location of the Fire Station prior to Lessee's commencement of any construction of the Fire Station.

5. **Fixtures and Improvements:** Lessee may, at Lessee's sole cost and expense, make such changes and alterations or improvement as may be necessary to use the Property to construct, operate and maintain a Solid Waste Transfer Station, Open Space Recreational Site, Fire Station, and any other uses approved in this Lease by the Lessor. Any and all other uses of the Property unrelated to the construction, operation and maintenance of a Solid Waste Transfer Station, Open Space Recreational Site, and Fire Station shall be approved by Lessor in writing at least six (6) months prior to commencement of such additional or other uses. Lessor shall not unreasonably withhold approval and shall be readily available to receive information required to approve such additional uses.

A. Unless the Lessor and Lessee agree otherwise with respect to specific fixtures such as road(s), electricity, gas and water utilities, all fixtures and improvements installed by Lessee shall remain the property of the Lessee, who shall remove the same within one (1) year of the date of termination of this Lease.

6. **Condition of the Property by Lessee upon termination or expiration of Lease Term:** Unless otherwise agreed to by the Lessor and Lessee with regard to specific fixtures or improvements, upon termination or expiration of the Term of this Lease Lessee shall return the Property to the condition the Property was in upon Lessee's initial lease of the Property and prior to Lessee's construction of improvements, structures and fixtures, ordinary wear and tear excepted. Lessee shall return the Property to such condition within one (1) year of the date of termination. Upon termination, Lessee shall conclude its operations and quit and surrender possession of the Property as soon as practicable. Lessee's surrender of the Property upon termination or expiration of the Term shall be in compliance with any applicable environmental requirements of the State of New Mexico Environment Department and any other regulatory entity.

7. **Condition of former dump site on the Property:** Lessee acknowledges that it is leasing the Property "as is" and that the Property contains a former dump site. Lessee agrees that within a period of three (3) to five (5) years from the effective date of this Lease, Lessee shall allocate resources and commence action toward the improvement of the former dump site and

shall complete such improvement within three (3) years from the time Lessee commences the actions toward the improvement.

8. **Utilities:** Lessee shall be responsible for payment of all utilities and other charges of whatsoever kind and nature, including but limited to, charges for electrical, gas, garbage, water, sewage, telephone, and other services, which may be incurred in connection with the Lessee's operation and maintenance of the Solid Waste Transfer Station and the public's use of the Transfer Station and future Open Space Recreational Site and Fire Station or any other Lessor-approved use of the Property. Lessee shall permit Lessor to use any utilities installed by Lessee as part of Lessee's use of the Property as long as Lessor establishes a separate account and pays for Lessor's use of utilities. Lessor may install its own utilities on or through the Property as long as such installation and use do not interfere with Lessee's quiet enjoyment and use of the Property.

9. **Access:** Lessor shall have access to the Property at all reasonable times, whether for inspection, its own use, or any other reason thereof as long as such access does not interfere with Lessee's use and quiet enjoyment of the Property. Lessee shall have clear signage for the public entrances to the Solid Waste Transfer Station and use of the Open Space Recreational Site and Fire Station. If Lessor must enter the Property at such time that the public entrances are closed or locked, Lessee shall permit Lessor to enter the Property through the entrance used by Lessee if one exists.

10. **Repair and Maintenance:** Lessor shall not be required to make any improvements or repairs whatsoever in or upon the Property during the Lease Term. Lessee shall keep and maintain said Property clean, safe, and in good order and condition at all times during the Term. Lessee shall be responsible for promptly attending to all required repairs, maintenance and necessary improvements to the Property during the Lease Term.

11. **Hazardous Substances:** Lessee shall not engage in any activity in or on the Property which constitutes a Reportable Use of Hazardous Substances without the prior written consent of the Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, and/or (ii) the generation, possession, storage, use, transportation, or disposal of Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with any governmental authority. Notwithstanding the foregoing Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the agreed use, so long as such use is not a Reportable Use, and does not expose the Property or neighboring properties to any meaningful risk of contamination or damage or expose Lessor to any liability therefore. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Property and/or the environment against damage, contamination, injury and/or liability, including but not limited to the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or imposing a security deposit or other protective modifications.

A. If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Property, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

B. Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Property (including through any plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/ or monitoring of the Property or neighboring properties that was caused or materially contributed to by Lessee or pertaining to or involving any Hazardous Substance brought onto the Property during the term of this Lease by or for Lessee, or any third party. Lessee's insurance coverage shall include coverage for losses due to Hazardous Substances.

C. Lessor and Lessee shall at all time and in all respects comply with federal, state and local laws, ordinances and regulations with respect to Hazardous Substances. Lessee shall provide Lessor with copies of any and all environmental reports, assessments or sanctions levied by the State of New Mexico Environment Department regarding to any Hazardous Substances issues or remediation completed during the Lease Term.

D. Notwithstanding Lessee's obligations stated above with respect to Hazardous Substances, Lessee shall not take any remedial action or enter into any settlement agreement, consent decree or other compromise with respect to any claims regarding Hazardous Substances in any way relating to the Property without written notice to the Lessor, and affording Lessor ample opportunity to concur, object or make a different recommendation with respect to Lessee's intended course of action.

12. **Base Lease Payment:** Lessee covenants and agrees to pay Lessor an annual lease payment (the Base Lease payment) for the Lessee's lease of the Property in the amount of Forty Thousand Dollars (\$40,000.00), exclusive of tax. The annual Lease payment shall be made in biannual installments. One half (\$20,000.00), shall be paid on the effective date of this Lease on September 1st, 2014. The second half (\$20,000.00), of the yearly Lease payment shall be paid six (6) months after the due date of the first yearly payment on March 1, 2015. Subsequent Lease payments shall be paid in six (6) month increments thereafter. Lessee shall remit the Lease payment to the Jacona Land Grant Association.

Dr
10-21-14
J.L.
10/17/14

A. **Base Lease payment escalator.** The Base Lease payment shall be subject to an annual increase of 2.8% per year.

B. **Property Taxes:** Lessee agrees to pay to Lessor along with the Lease payments due, that portion of property tax assessed on the Property after and as a result of Lessee's completion of any roads, the Solid Waste Transfer Station and any other Lessor-approved improvements including the Open Space Recreational Site and Fire Station. For each year of the Term of this

Lease, Lessee shall pay such portion of property tax directly to Lessor who shall continue to pay the total property tax due on the Property as assessed annually by the County Assessor. Lessee shall pay its portion of the property tax to Lessor at the first scheduled biannual payment after the Lessor's receipt of the Notice of Valuation for the Property from the County Assessor. The Lessee shall also pay its portion of the annual property tax to the Lessor for the last year of the lease Term in one lump sum within two (2) months of the Lessor's receipt of the Notice of Valuation from the County Assessor; the parties understand and agree that Lessee's payment of its portion of the annual property tax shall be due and paid after the termination of the lease Term.

13. **Permits:** Lessee shall be responsible for the acquisition of any required permits or any other approvals from outside agencies, such as the New Mexico Environment Department or New Mexico Department of Transportation, in the execution of the terms of this Lease.

14. **Taxes:** In accordance with Section 12 (Base Lease Payment), Lessee shall pay any and all applicable taxes on the property after and as a result of Lessee's completion of any roads, the Solid Waste Transfer Station and any other Lessor-approved improvements including the Open Space Recreational Site and Fire Station, including without limitation the Lessee's portion of the property tax as provided in Section 12.D above, as levied by the County Assessor. Lessee shall also pay any tax assessed upon any personal property or fixtures and/or improvements completed by the Lessee on the Property during the Term of this Agreement.

15. **Subleasing:** Lessee shall not sublease to a third party or otherwise permit third-party occupancy or use of the Property or any portion thereof. Any sublease of this Lease by Lessee shall be void and shall be of no force or effect and shall confer no rights upon any sublessee.

16. **Assignment:** Lessee may assign this Lease only with the prior written approval Lessor. Lessee shall submit a written request to the Lessor at least ninety (90) days prior to the proposed assignment.

17. **Liability and Insurance:** Lessee shall throughout the Term of this Lease provide insurance coverage on the Property as required by the laws of the State of New Mexico and to provide coverage for the activities for which immunity is waived pursuant to §§ 41-4-8A and 41-4-6A, NMSA 1978, of the New Mexico Tort Claims Act. No provision of this Lease modifies or waives any sovereign immunity or limitation of liability enjoyed by the Lessee or its "public employees" under common law or under the New Mexico Tort Claims Act, NMSA 1978, 41-4-1, et seq, as amended.

Lessee shall name Lessor as an additional insured in its insurance policy and shall provide a Lessee's certificate of insurance to Lessor.

18. **Non-Discrimination:** Lessee, with respect to employment of staff and to those persons using the Property, shall not discriminate unlawfully with respect to race, sex, national origin, age religion, sexual orientation or any other class protected against discrimination by applicable local, state or federal laws.

19. **Default:** In the event that Lessee shall be in default of any payment of the Base Lease payment or in the performance of any of the terms or conditions agreed to be kept and performed by the Lessee pursuant to this Lease, Lessor may terminate and end this Lease as provided in Section 23.

20. **Notices:** Any notices which are required hereunder, or which either Lessor or Lessee may desire to serve upon the other, shall be in writing and shall be deemed served when delivered personally, or three days after deposited in the United States mail, postage prepaid, addressed to:

Lessee: Santa Fe County Manager
Santa Fe County
Post Office Box 276
102 Grant Avenue
Santa Fe, New Mexico 87504-0276

Lessor: Jacona Land Grant Association President
P. O. Box 3769
11 West Gutierrez
Santa Fe, New Mexico 87506

Lessor and Lessee shall be responsible for informing the other of any change in address in order to ensure the ability to exchange notices.

21. **Compliance with Laws and Governing Law:** Lessee and Lessor agree to comply with all laws, ordinances, rules and regulations which may pertain to the Property and the use thereof. This Lease shall be governed by the laws of the State of New Mexico.

22. **Successors in Interest:** All of the terms, covenants and conditions contained in this Lease shall continue, and bind all successors in interest of both Lessor and Lessee herein, subject to Lessor's approval of any assignment of this Lease by Lessee pursuant to Section 16.

23. **Termination of Lease:**

A. **Termination for Cause.** Either Lessee or Lessor may terminate this Lease Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure. The parties shall mutually agree on a reasonable time to cure the breach.

KASAPAE SHOLIASES
AREJO YTMUOC

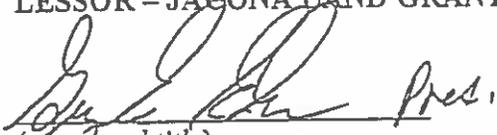
B. Termination for Convenience of the Lessee. The Lessee may, in its discretion, terminate this Lease at any time for any reason by giving the Lessor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than one (1) year from the Lessor's receipt of the notice. The Lessee shall not be liable for any Lease payment after the date of termination but shall be responsible for payment of its portion of taxes as provided in Sections 12.B and 14 of this Agreement, for the last year of the Term of this Agreement which shall be paid to the Lessor within two (2) months of the Lessor's receipt of the annual tax assessment from the County Assessor.

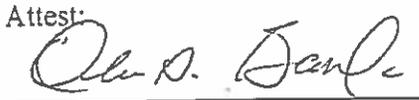
24. Amendments: This Lease shall not be amended, changed or altered except by an instrument in writing signed by the Lessor and Lessee.

25. Entire Lease: The foregoing constitutes the entire agreement between Lessor and Lessee, represents their entire understanding and defines all of their respective rights, title and interest as well as all of their duties, responsibilities and obligations. Any and all prior agreements and understandings between the parties are merged herein.

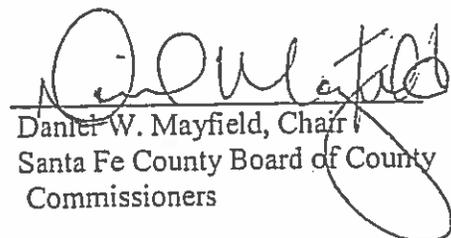
IN WITNESS THEREOF, the parties hereto have executed this Lease Agreement and have set their hand and seals.

LESSOR - JAGONA LAND GRANT ASSOCIATION


(name and title) Date: 8/28/14

Attest:

Date: 8-28-14

LESSEE - SANTA FE COUNTY


Daniel W. Mayfield, Chair
Santa Fe County Board of County
Commissioners Date: 8/26/14

ATTEST:


GERALDINE SALAZAR
COUNTY CLERK
8-26-2014

Approved as to form:

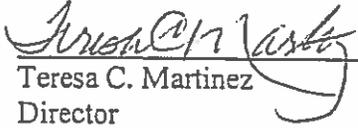


Gregory S. Shaffer
Santa Fe County Attorney

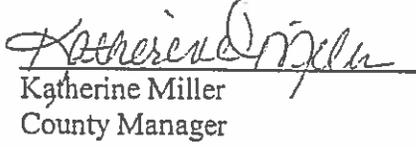
Date: 8/18/14

Approved:

Finance Department


Teresa C. Martinez
Director

Date: 8/20/14


Katherine Miller
County Manager

Date: 8-20-14

NEW MEXICO STATE BOARD OF FINANCE

(signature and title)

Date: _____

EXHIBIT "A" (DESCRIPTION OF PROPERTY)

Brian K. McClintock, N.M.P.S. #11597

New Mexico Professional Surveyor

c/o - BLUELINE CONSTRUCTION, INC.

P.O. Box 28666, Santa Fe, New Mexico 87592-8666

505.216.7909/office

bkm@bluelinenm.com

LEASE PARCEL – "The Cooperative Association of the Jacona Grant" and "County of Santa Fe"

A Parcel of land for Lease, lying within the Jacona Grant, projected Section 15, T.19 N., R.8 E., N.M.P.M., Santa Fe County, New Mexico and being more particularly described as follows:

Beginning at a point on the Northwest corner (POB) of the herein described lease parcel, being a No.4 rebar set (NMPS #11597), also being a point located on the westerly Jacona Grant line common to the easterly San Ildefonso Pueblo Grant line from which point a NMDOT right of way brass monument for NM State Road 502, stamped "STA.134+27.75, L.S.#5221", bears N.00deg.09'46"W. a distance of 101.97 feet; thence continuing along said common grant line, N.00deg.09'54"W. a distance of 1148.38 feet to a U.S.G.L.O brass monument, stamped "U.S.G.L.O., T.19N., R.8E., CC S10/S15, 1914";

Thence from said Northwest corner, point of beginning (POB), S.78deg.53'35"E., a distance of 837.87 feet to the Northeast lease parcel corner, being a No. 4 rebar set (NMPS #11597), from which corner a NMDOT right of way brass monument for NM State Road 502, stamped "STA.245+37.30, LS #5221", bears N.79deg.20'48"E., a distance of 269.74 feet, also from said Northeast lease parcel corner a GPS plastic control monument, stamped "Metes and Bounds", bears N.25deg.16'32"E., a distance of 291.74 feet; Thence from said Northeast lease corner S.27deg.38'24"E. a distance of 192.93 feet to an angle point on the said lease parcel, also being a No. 4 rebar set (NMPS #11597); Thence S.00deg.56'39"W., a distance of 675.36 feet to the Southeast lease parcel corner, being a No.4 rebar set (NMPS #11597), from which corner a Santa Fe County Control monument, SF-17, bears N.82deg.53'44"E., a distance of 4824.71 feet, also from said Southeast lease parcel corner a U.S.G.L.O. brass monument, stamped "U.S.G.L.O., T.19N., R.8E., JG, S14/S23, 1929" bears S.32deg.38'20"E., a distance of 4050.48 feet; Thence from said Southeast lease corner S.85deg.42'27"W. a distance of 900.02 feet to the southwest lease parcel corner, being a U.S.G.L.O. brass monument, stamped "U.S.G.L.O., T.19N. R.8E., SIPG, 1M/S15, 1914", also being a point on the grant line common to the Jacona Grant and the San Ildefonso Pueblo Grant, from which point another U.S.G.L.O. brass monument stamped "U.S.G.L.O., T.19N., R.8E., SIPG, ½ M, S15, 1914" bears S.00deg.10'33"E. a distance of 2632.26 feet; Thence from said Southwest lease corner N.00deg.09'46"W., along said common grant line, a distance of 1074.96 feet to the Northwest lease parcel corner, being the said point and place of beginning.

Said lease parcel described above contains: 855,186.84 sq.ft. (19.6324 acres) more or less.

Brian K. McClintock

Brian K. McClintock

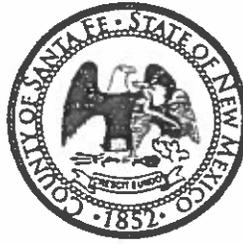
NMPS # 11597



Henry P. Roybal
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: *December 22, 2015*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Purchasing Manager*

VIA: *Katherine Miller, County Manager*
Jeff Trujillo, ASD Director
Pablo Sedillo, Director of Public Safety
Michael Kelley, Public Works Director

ITEM AND ISSUE: BCC Meeting January 12, 2016

REQUEST APPROVAL OF CONSTRUCTION CONTRACT NO. 2016-0114-FD/MM BETWEEN SANTA FE COUNTY AND LLR CONSTRUCTION, LLC. IN THE AMOUNT OF \$1,023,473.00, EXCLUSIVE OF GRT FOR THE CONSTRUCTION OF THE GLORIETA FIRE STATION NO. 2 AND REQUEST SIGNATURE AUTHORITY BE GRANTED TO THE COUNTY MANAGER TO EXECUTE THE PURCHASE ORDER. (PURCHASING/BILL TAYLOR)

SUMMARY:

The Purchasing Division and the Public Works Department are requesting County Manager signature approval on the LLR Construction, Inc., purchase order in the amount of \$1,023,473.00 exclusive of GRT for the Construction of the Glorieta Fire Station No. 2 Contract No. 2016-0114-FD/MM.

BACKGROUND:

The Purchasing Division issued the Invitation for Bid (IFB) # 2015-0364-FD/IC on June 28, 2015 and the bid opening was held on August 5, 2015. This project was cancelled on August 12, 2015 as all bids exceeded project budget. The Purchasing Division rebid this project with Invitation for Bid # 2016-0114-FD/MM on November 19, 2015 for the construction services. Eight (8) bids were received from the following Bidders:

AIC Contractor
Anissa Construction
LLR Construction LLC
Longhorn Construction
R and M Construction

Sierra Building
T.A. Cole & Sons
Weil Construction

The Bids ranged from \$ 1,009,356.45 to \$ 1,504,735.00 with LLR Construction LLC being the lowest responsive bid.

The work consists of drilling a well and the construction of the fire station with three apparatus bays, office, meeting room, kitchenette, restrooms and storage space.

ACTION REQUESTED:

The Purchasing Division and the Public Works Department are requesting BCC approval of Contract No. 2016-0114-FD/MM with LLR Construction, LLC. in the amount of \$1,023,473.00 exclusive of GRT for the construction of the Glorieta Fire Station No. 2 and request signature authority be granted for the County Manager to execute the purchase order.

**AGREEMENT BETWEEN SANTA FE COUNTY AND CONTRACTOR
FOR CONSTRUCTION SERVICES**



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION
2014 EDITION**

[Changes, additions, deletions and/or any modifications other than those agreed upon by the parties upon execution of this contract, without the written consent of Santa Fe County shall render this document null and void.]

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.

Hereafter "County":

Katherine Miller, County Manager
Santa Fe County
PO Box 276
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200
FAX: 505-995-2740

Hereafter "Contractor":

Doug Langley, Managing Member
LLR Construction, LLC
1000 Cordova Place #91
Santa Fe, New Mexico 87505
TELEPHONE: 505-428-9571
E-MAIL ADDRESS: doug@llrconstructionnm.com

ARCHITECT

NAME: Marci Riskin
Riskin Associates Architecture, Inc.
ADDRESS: 227 E. Palace Avenue, Suite C.
Santa Fe, New Mexico 87501
TELEPHONE: (505) 983-0722
E-MAIL ADDRESS: marci@riskinassociates.com

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RECITALS

WHEREAS, in accordance with Section 13-1-103 through Section 13-1-110 NMSA 1978, the County issued Invitation for Bid (IFB) No. 2016-0114-FD/MM for construction services for Glorieta Fire Station No. 2; and

WHEREAS, the Contractor submitted its bid, dated November 19, 2015, in response to IFB No. 2016-0114-FD/MM; and

WHEREAS, the County is authorized to enter into a construction contract for this construction project pursuant to Section 13-1-100, NMSA 1978; and

WHEREAS, the Contractor hereby represents that it is a licensed contractor of the State of New Mexico pursuant to Chapter 60, Article 13 NMSA 1978; and

WHEREAS, the County agrees to hire the Contractor and the Contractor agrees to provide construction services as required herein for the Project in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the County requires the services of the Contractor, and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

ARTICLE 1 THE CONTRACT DOCUMENTS

1.1 DOCUMENTS

The contract documents consist of the following:

- | | |
|--|--------------|
| -Agreement between County and Contractor | |
| -General Conditions of the Construction Contract | |
| -Conditions of the Work of the Construction Contract | |
| -Bid Sheet | Attachment A |
| -Addenda and Modifications issued
before and after execution of this Contract | Attachment B |

1.2 CERTIFICATES AND DOCUMENTATION

The following certificates and documentation are hereby attached as exhibits as follows:

- | | |
|--|-----------|
| Project Manual | Exhibit A |
| Technical Specifications as listed in Plan Set | Exhibit B |
| Labor and Material Payment Bond | Exhibit C |
| Performance Bond | Exhibit D |
| Assignment of Antitrust Claims | Exhibit E |
| Certificate of Insurance | Exhibit F |

Notice of Award
Notice to Proceed
Change Order
Certificate of Substantial Completion

Exhibit G
Exhibit H
Exhibit I
Exhibit J

ARTICLE 2 THE WORK

2.1 THE WORK

The Contractor shall perform all the Work required by the Contract Documents for the following:

Construct the Glorieta Fire Station No. 2 located in the community of Glorieta, Santa Fe, New Mexico. The work consists of drilling a well and the construction of the fire station with three apparatus bays, office, meeting room, kitchenette, restrooms and storage space.

ARTICLE 3 EFFECTIVE DATE, TIME OF COMMENCEMENT, SUBSTANTIAL COMPLETION AND AMENDMENTS

3.1 EFFECTIVE DATE

The Effective Date of this Agreement is the last date of signature by the parties.

3.2 TIME OF COMMENCEMENT

The work to be performed under this Contract shall be commenced no later than ten (10) consecutive calendar days after the date of written Notice to Proceed issued by the County, hereto attached as Exhibit H.

3.3 SUBSTANTIAL COMPLETION

The Contractor shall achieve Substantial Completion of the entire work no later than Two Hundred Seventy (270) calendar days from the date of the Notice to Proceed, except as hereafter extended by valid written Change Order. A Certificate of Substantial Completion, attached hereto as Exhibit J, will be issued by the County to the Contractor, as adjusted by any Change Order, attached hereto as Exhibit I.

3.4 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

Should the Contractor neglect, refuse, or otherwise fail to complete the Work within the time specified in this Article, the Contractor agrees that Liquidated Damages in the amount of Five Hundred dollars (\$500.00) shall be assessed each calendar day that expires after the date of substantial completion, as adjusted by any change order, and until issuance by the County of a

certificate of Substantial Completion in accordance with Paragraph 7 EFFECTIVE DATE AND TERM of the General Conditions.

- A. It is hereby understood and mutually agreed, by and between the Contractor and the County, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are *essential conditions* of this contract and it is further mutually understood and agreed that the work outlined in this contract shall be commenced on a date to be specified in the Notice to Proceed.
- B. The Contractor agrees that work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the County, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- C. If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified or any proper extension thereof granted by the County, then the Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the County the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as herein set forth, for each and every calendar day that the contract shall be in default after the time stipulated in the contract for completing the work.
- D. The amount is fixed and agreed upon by and between the Contractor and the County because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the County would in such event sustain, and the amount is agreed to be the amount of damages which the County would sustain and the amount shall be retained from time to time by the County from current periodical estimates.
- E. It is agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the County determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the County. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:
 1. To any preference, priority or allocation order duly issued by the County;
 2. To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the County, acts of another contractor in the performance of a contract with the County, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather;

3. To any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections above.

F. Provided further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the County shall grant a further period of time prior to the date of final settlement of the contract, notify the County in writing of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

3.5 AMENDMENTS

This Agreement may be amended by mutual agreement by both parties upon issuance of a Change Order by the County to the Contractor. Any such amendment shall be in accordance with Paragraph 10 AMENDMENTS-CHANGE ORDERS of the General Conditions. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued by the County prior to the effective date of the amendment.

ARTICLE 4 CONTRACT SUM

4.1 LUMP SUM

The County shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, an agreed upon Lump Sum of One Million Twenty Three Thousand Four Hundred Seventy Three Dollars (\$1,023,473.00), exclusive of New Mexico gross receipts tax.

4.2 CONTRACT AMOUNT

The Contract sum is determined as follows:

Base Bid	\$ 959,124.00
Additive Alternate 1	\$ 11,016.00
Additive Alternate 2	\$ 1,965.00
Additive Alternative 3	\$ 3,805.00
Additive Alternate 4	\$ 47,563.00
Total Contract Amount	\$ 1,023,473.00

ARTICLE 5 PROGRESS PAYMENTS

5.1 PROGRESS PAYMENTS

Based upon an Application for Payment submitted to the County by the Contractor and Certificates for Payment issued by the County, the County 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:

- A. No later than twenty one (21) working days following receipt by the County of an undisputed 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 County; less such amounts as the Architect/ Engineer shall determine for all incomplete Work and unsettled claims as provided in the Contract Documents (Section 57-28-5, NMSA 1978).
- B. When making payments, the County, Contractor or subcontractor shall not retain, withhold, hold back or in any other manner not pay amounts owed for work performed. For additional information regarding retainage and the Prompt Payment Act (refer to Section 57-28-5, NMSA 1978).
- C. Contractors and subcontractors shall make prompt payment to their subcontractors and suppliers for amounts owed for work performed on the construction project within twenty-one days after receipt of payment from the County, contractor or subcontractor. If the contractor or subcontractor fails to pay its subcontractor and suppliers by first-class mail or hand delivery within twenty-one days after receipt of an undisputed request for payment, the contractor or subcontractor shall pay interest to its subcontractors and suppliers 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 payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers (Section 57-28-1 et. seq. NMSA 1978).
- D. In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.
- E. All material and work covered by partial payments made shall thereupon become the sole property of the County, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the County to require the fulfillment of all of the terms of the contract.

- F. County's right to withhold certain amounts and make application thereof. The Contractor agrees that it will indemnify and hold the County harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnisher of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the County's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the County may, after having served written notice on the said Contractor, either pay unpaid bills, of which the County has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the County to either the Contractor or its Surety. In paying any unpaid bills of the Contractor, the County shall be deemed the agent of the Contractor, and any payment so made by the County shall be considered as a payment made under the contract by the County to the Contractor and the County shall not be liable to the Contractor for any such payments made in good faith.

ARTICLE 6 FINAL PAYMENT

6.1 FINAL PAYMENT

The entire unpaid balance of the Contract Sum, shall be paid by the County to the Contractor within thirty (30) calendar days after notification of the County by the Architect/Engineer that all incomplete and unacceptable work that was noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion has been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the Architect/Engineer. In addition, the Contractor shall provide to the County a certified statement of Release of Liens and Consent of Surety.

6.2 ACCEPTANCE OF FINAL PAYMENT CONTITUTES RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of all claims and all liability to the Contractor for all things done or furnished in connection with this work and for every act and neglect of the County and others relating to or arising out of this work. No payment, however, final or otherwise, shall operate to release the Contractor or its sureties from any obligations under this contract or the Performance and Payment Bond.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY

Robert A. Anaya, Chair
Santa Fe County Board of County Commissioners

Date

ATTESTATION:

Geraldine Salazar
Santa Fe County Clerk

REVIEWED AS TO LEGAL FORM AND SUFFICIENCY

Gregory S. Shaffer
Gregory S. Shaffer
Santa Fe County Attorney

10-14-15
Date

FINANCE DEPARTMENT APPROVAL:

Carole H. Jaramillo
Carole H. Jaramillo
Santa Fe County Finance Director

12/15/15
Date

CONTRACTOR:

Doug Langley
Signature

12/28/15
Date

Doug Langley
Print Name

Managing Member
Print Title

**GENERAL CONDITIONS
TO AGREEMENT BETWEEN SANTA FE COUNTY
AND CONTRACTOR
FOR CONSTRUCTION SERVICES**

1.0 DEFINITIONS

The following terms as used in this contract are respectively defined as follows:

- 1.1 *Application for Payment* Contractor's written request for payment for completed portions of the work and, for materials delivered or stored and properly labeled for the respective project.
- 1.2 *Change Order* A written document between the County and the Contractor signed by the County and the Contractor authorizing a change in the work or an adjustment in the contract sum or the contract time. A change order may be signed by the Architect or Engineer, provided they have written authority from the County for such procedure and that a copy of such written authority is furnished to the Contractor upon request. The contract sum and the contract time may be changed only by change order. A change order may be in the form of additional compensation or time; or less compensation or time known as a Deduction (from the contract) the amount deducted from the contract sum by change order.
- 1.3 *Calendar Day* Each and every Day shown on the calendar, beginning and ending at midnight.
- 1.4 *Contract Period* The elapsed number of working days or calendar days from the specified date of commencing work to the specified date of completion, as specified in the contract.
- 1.5 *Contractor* is a person, firm or corporation with whom the contract is entered into with the County.
- 1.6 *Construction Documents* All drawings, specifications and addenda associated with a specific construction project.
- 1.7 *Construction Schedule* A schedule in form satisfactory to the County, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the contract documents and the anticipated amount of each monthly payment that will become due the Contractor in accordance with the progress schedule.
- 1.8 *Day* The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- 1.9 *Labor and Material Payment Bond* A written form of security from a surety (bonding) company to the County, on behalf of an acceptable prime Contractor or

subcontractor, guaranteeing payment to the County in the event the Contractor fails to pay for all labor, materials, equipment, or services in accordance with the contract. (see Performance Bond and Surety Bond).

- 1.10 Lump Sum Agreement** (See Stipulated Sum Agreement)
- 1.11 Lump Sum Bid** A single entry amount to cover all labor, equipment, materials, services, and overhead and profit for completing the construction of a variety of unspecified items of work without the benefit of a cost breakdown.
- 1.12 Lump Sum Contract** A written contract between the County and Contractor wherein the County agrees to pay the contractor a specified sum of money for completing a scope of work consisting of a variety of unspecified items or work.
- 1.13 Payment Bond** A written form of security from a surety company to the County, on behalf of an acceptable prime contractor or subcontractor, guaranteeing payment to all persons providing labor, materials, equipment, or services in accordance with the contract.
- 1.14 Performance Bond** A written form of security from a surety company to the County, on behalf of an acceptable prime contractor or subcontractor, guaranteeing the completion of the work in accordance with the terms of the contract.
- 1.15 Progress Payment** A payment from the County to the Contractor determined by calculating the difference between the completed work and materials stored and a predetermined schedule of values or unit costs. (see Schedule of Values, Unit Costs).
- 1.16 Progress Schedule** A pictorial or written schedule (including a graph or diagram) that shows proposed and actual start and completion dates of the various work elements.
- 1.17 Punch list** a list of items to be completed or corrected, prepared by the Architect/Engineer, checked and augmented as required by the Contractor or Construction Manager is appended hereto as Exhibit J. Note: The failure to include any item on such list does not relieve the Contractor of the responsibility to complete all work in accordance with the contract documents.
- 1.18 Schedule of Values** A statement furnished by the Contractor to the Architect or Engineer and the County reflecting the portions of the contract sum allotted for the various parts of the work and used as the basis for reviewing the Contractor's Applications for Payment.
- 1.19 Services** Includes services performed, workmanship, and material furnished or utilized in the performance of services.

- 1.20 *Stipulated Sum Agreement* A written agreement in which a specific amount is set forth as the total payment for completing the contract (See Lump Sum Contract).
- 1.21 *Subcontractor* is a person, firm or corporation supplying labor and materials or only labor for work at the site of the project for, and under separate contract or agreement with, the Contractor.
- 1.22 *Unit Price Contract* A written contract wherein the County agrees to pay the Contractor a specified amount of money for each unit of work successfully completed as set forth in the contract.
- 1.23 *Unit Prices* A predetermined price for a measurement or quantity of work to be performed within a specific contract. The designated unit price would include all labor materials, equipment or services associated with the measurement or quantity established.
- 1.24 *Working Day* means every day except Saturday, Sunday and holidays recognized by Santa Fe County. Based on a review of weather that may adversely affect the Contractor's ability to effectively prosecute the Work, and the actual Work performed by the Contractor, the Architect or Engineer will determine (between the end of the day and noon of the next day) if the County will charge a Working Day. If the Contractor was able to effectively prosecute Work on a critical path item for six (6) or more hours on a Saturday, Sunday or County-recognized Holiday, the Architect or Engineer may charge a Working Day.
- 1.25 *Work on (at) the project* is work to be performed at the location of the project, including the transportation of materials and supplies to or from the location of the project by employees of the Contractor and any subcontractor.

2. CONTRACT AND CONTRACT DOCUMENTS

- 2.1 *Entire Agreement*. This Agreement represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this Agreement, and all such conditions, understandings, and agreements have been merged into this written Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless incorporated in this written Agreement.
- 2.2 *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.
- 2.3 *Conflicting Conditions*. Any provisions in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

3. PLANS, SPECIFICATIONS AND ADDENDA

- 3.1 The plans, specifications and addenda, hereinafter enumerated in Article 1 of the Agreement Between County and Contractor for Construction shall form part of this Contract and the provisions thereof shall be as binding upon the parties hereto as if they were herein fully set forth. The table of contents, titles, headings, running headlines and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect or limit the interpretation of the provisions to which they refer.
- 3.2 Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Agreement shall be attached to this Agreement at the time of execution, and are hereby incorporated by reference as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

4. CONTRACT SECURITY – BONDS

- 4.1 Performance Bond. The Contractor shall furnish a performance bond in an amount at least equal to one hundred percent (100%) of the contract sum as security for the faithful performance of this contract. The performance bond and the payment bond may be in one or in separate instruments in accordance with local law.
- 4.2 Payment Bond. The Contractor shall provide payment bond in an amount not less than one hundred percent (100%) of the contract price or in a penal sum not less than that prescribed by state, territorial or local law, as security for the payment of all persons performing labor on the project under this contract, furnishing materials in connection with this contract and all of Contractor's requirements as specified in the contract documents. The Payment Bond shall remain in effect until one year after the date when final payment becomes due.
- 4.3 Additional or Substitute Bond. If at any time the County for justifiable cause shall be or become dissatisfied with any surety or sureties, then upon the Performance or Payment Bonds, the Contractor shall within five (5) days after notice from the County so to do, substitute an acceptable bond (or bonds) in such form and sum and signed by such other surety or sureties as may be satisfactory to the County. The premiums on such bond shall be paid by the Contractor. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished such an acceptable bond to the County.
- 4.4 Labor and Material Bond. The Contractor shall provide to the County Labor and Material Bond in an amount equal to the required payments by the Contractor to pay specified subcontractors, laborers, and materials suppliers associated with the project.

5. TERMS AND MEANINGS

Terms used in this Agreement that are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

- 5.1 **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 meanings. In the event of a conflict, the more stringent meaning shall govern.
- 5.2 **Gender, Singular/Plural.** Words of any gender used in this Agreement 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.
- 5.3 **Captions and Section Headings.** The captions and section headings contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope and conditions of this Agreement.
- 5.4 **Interchangeable Terms.** For purposes of all provisions within this Agreement and all attachments hereto, the terms "Agreement" and "Contract" shall have the same meaning and shall be interchangeable.

6. COMPLIANCE WITH APPLICABLE LAW, CHOICE OF LAW

- 6.1 This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of New Mexico and applicable ordinances of Santa Fe County.
- 6.2 In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations, including Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).
- 6.3 **Minimum Wage Rates.** The Contractor, all subcontractors and subsubcontractors warrants and agree to will comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act as outlined in the Bid Documents. Wage rates are not applicable to projects costing less than \$60,000.
- 6.4 This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be federal and state district courts of New Mexico.
- 6.5 Pursuant to 13-1-191, NMSA 1978, reference is hereby made to the criminal laws of New Mexico, including §30-14-1, §30-24-2, and §30-41-1 through 3 NMSA 1978, which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code, 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation.
- 6.6 **New Mexico Tort Claims Act.** By entering into this Agreement, 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, Sections 41-4-1, et Seq. NMSA 1978, as amended. The County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not

waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

- 6.7 **Provision Required by Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

7. EFFECTIVE DATE AND TERM

- 7.1 This Agreement shall, upon due execution by all parties, become effective in accordance with the Agreement Between County and Contractor for Construction, Article 3 - Effective Date, Time of Commencement and Substantial Completion. This Agreement shall not become effective until: (1) approved by the Santa Fe County Commissioners and/or the County Manager or their designee; and (2) signed by all parties required to sign this Agreement.
- 7.2 This Contract shall achieve Substantial Completion in accordance with the Agreement Between County and Contractor, Article 3 - Effective Date, Time of Commencement and Substantial Completion, unless earlier terminated pursuant to Section 8 (Termination) or 9, (Appropriations and Authorizations) of these General Conditions.

8. TERMINATION

- 8.1 **Termination of Agreement for Cause.** Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.
- 8.2 **Termination for Convenience of the County.** The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

- 8.3 Right of the County to Terminate Contract In the event that any of the provisions of this contract are violated by the Contractor, or by any of its subcontractors, the County may serve written notice upon the Contractor and the Surety of its intention to terminate the contract, such notices to contain the reasons for such intention to terminate the contract, and unless within ten (10) days after the serving of such notice upon the Contractor, such violation or delay shall cease and satisfactory arrangement of correction be made, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the County shall immediately serve notice thereof upon the Surety and the Contractor and the Surety shall have the right to take over and perform the contract. Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the County may take over the work and prosecute the same to completion by contract or by force account and at the expense of the Contractor and the Contractor and its Surety shall be liable to the County for any excess cost occasioned the County thereby, and in such event the County may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

9. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Santa Fe County Board of County Commissioners and/or, if state funds are involved, the New Mexico State Legislature. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

10. AMENDMENTS – CHANGE ORDERS

Contract Documents may be amended by a Change Order, hereto attached as Exhibit I to allow for additions, deletions, and revision as specified in Article 2 "The Work" of the Agreement between Santa Fe County and the Contractor or to amend the terms and conditions by a Change Order.

11. INDEMNIFICATION

- 11.1 The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

- 11.2 The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent can not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.
- 11.3 The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

12. AGGRIEVEMENT PROCEDURE DURING CONTRACT ADMINISTRATION

- 12.1 Any claims, disputes, or other matters in question between the Contractor and the County, except those which have been waived by the making or acceptance of final payment as provided in Paragraph 6.2 of the Agreement Between Santa Fe County and Contractor for Construction, shall be presented in the form of a written request accompanied by supporting data to the Architect/Engineer for formal decision, with a copy to the other party. Such formal decision of the Architect/Engineer is binding upon the Contractor and the Owner unless either or both notify each other and the Architect/Engineer in writing within fifteen (15) days of their receipt of the decision that they are unwilling to abide by the Architect's/Engineer's decision, are thereby aggrieved in connection with the decision, and are separately exercising such rights as either may have under the Contract Documents or by law and regulation. If the Architect/Engineer fails to provide a written decision or a reasonable schedule to issue a written decision within ten (10) days after the County or the Contractor has presented its request, that party may consider itself aggrieved and may proceed to exercise its rights.
- 12.2 A settlement agreement signed by the County and the Contractor shall supersede and cancel any other dispute resolution proceedings regarding the same matter.
- 12.3 Unless work is stopped or payment withheld in accordance with the conditions of the Contract, or unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any dispute resolution proceedings, and the Owner shall continue to make payments to the Contractor in accordance with the Contract Documents.

13. DISPUTE RESOLUTION

- 13.1 Either County or Contractor may request mediation pursuant to the New Mexico Public Works Mediation Act, 13-4C-1 NMSA 1978, of any claim before such decision become final and binding. The request for mediation shall be submitted in writing to the other party. Timely submission of the request shall stay the effect of Paragraph 12.1.
- 13.2 County and Contractor shall participate in the mediation process in good faith. The process shall be completed within Sixty (60) days of filing of the request. The mediation shall be governed by the rules for mediation pursuant to the New Mexico Public Works Mediation

Act.

13.3 If the dispute is not resolved by mediation, the dispute shall be resolved through litigation in the district court. The parties agree that the exclusive forum for such litigation shall be the State of New Mexico District Court for the First Judicial District at Santa Fe, New Mexico. Contractor irrevocably consents to the jurisdiction of said Court and agrees to accept service of a summons and complaint by mail or commercial courier service in accordance with Rule 1-004(E) (3) NMRA.

14. INSURANCE

14.1 The Contractor shall not commence work under this contract until they have obtained all the insurance required under this paragraph and such insurance has been approved by the County, nor shall the Contractor allow any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been so obtained and approved.

14.2 Proof of Carriage of Insurance. The Contractor shall furnish the County with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions".

14.3 General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.

14.4 General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The Santa Fe County shall be a named additional insured on the policy.

14.5 Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance. The Contractor shall require each of its subcontractors to procure and to maintain during the life of its subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in 14.4 above.

14.6 Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act, 52-1-1 to 52-1-70 NMSA 1978. The Contractor shall procure and shall maintain during the life of this contract Workmen's Compensation Insurance as

required by applicable State law for all of its employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation law, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of its employees as are not otherwise protected.

- 14.7 Scope of Insurance and Special Hazards.** The insurance require under subparagraphs 14.4 and 14.5 hereof shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this Contract.
- 14.8 Builder's Risk Insurance (Fire and Extended Coverage).** Until the project is completed and accepted by the County, the County, or Contractor at the County's option is required to maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portion of the project for the benefit of the County, the Contractor, subcontractors as their interests may appear. The Contractor shall not include any costs for Builder's Risk Insurance (fire and extended coverage) premiums during construction unless the Contractor is required to provide such insurance; however, this provision shall not release the Contractor from its obligation to complete, according to plans and specifications, the project covered by the contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking.
- 14.9 Increased Limits.** If, during the life of this Agreement, the New Mexico State Legislature increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.
- 14.10 Additional insured.** Santa Fe County will be listed as an additional insured on all policies, and proof of coverage must be provided before work begins. Contractor shall maintain adequate insurance in at least the maximum amounts which the County could be liable under the New Mexico Tort Claims Act. It is the sole responsibility of the Contractor to be in compliance with the law.

15. INDEPENDENT CONTRACTOR

- 15.1** The Contractor and the Contractor's agents and employees are independent contractors performing professional and technical services for the County and are not employees of the County. The Contractor and the Contractor's agents and employees shall not accrue leave, retirement, insurance, bonding, use of County's vehicles, or any other benefits afforded to employees of the County as a result of this Agreement.

15.2 The Contractor shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of the County.

15.3 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 County and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive illegal payments.

16. CONFLICT OF INTEREST OF OFFICERS OR EMPLOYEES OF THE LOCAL JURISDICTION, MEMBERS OF THE LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

16.1 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 contract, during its 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. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

16.2 No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the County who is authorized in such capacity and on behalf of the County to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

16.3 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 Agreement.

17. ASSIGNMENT

17.1 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 advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

18. SUBCONTRACTING

18.1 The Contractor shall not subcontract or delegate any portion of the services to be

performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

- 18.2 Contractor shall provide to the County a listing of subcontractors within ten (10) days of the Contract award.
- 18.3 Contractor shall adhere to all provisions of the Subcontractor's Fair Practices Act 13-4-31 to 13-4-42, NMSA 1978.
- 18.4 Contractor shall provide to the County completed Non-Collusion Affidavit of Subcontractor form and Certification of Subcontractor Regarding Equal Employment Opportunity form for all subcontractors listed.
- 18.5 The Contractor shall not award any work to any subcontractor without prior written approval of the County, which approval will not be given until the Contractor submits to the County a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the County may require.
- 18.6 The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as they are for the acts and omissions of persons directly employed by them.
- 18.7 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the County may exercise over the Contractor under any provision of the contract documents.
- 18.8 Nothing contained in this contract shall create any contractual relation between any subcontractor and the County.
- 18.9 All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate written agreement between Contractor and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of County. Any contract between Contractor and a Subcontractor or Supplier shall provide that any remedy or claim for nonpayment of sums due or owing to Subcontractor or Supplier or services performed or materials provided is against Contractor and not County, subject to any remedy or rights Subcontractor or Supplier may have under the terms of the Contractor's Performance Bond and Section 13-4-19 NMSA 1978, the New Mexico Little Miller Act.

19. PERSONNEL

- 19.1 All work performed under this Agreement shall be performed by the Contractor or under its supervision.

19.2 The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

20. NOTICES

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

To the County: Santa Fe County
 Office of the County Attorney
 102 Grant Avenue
 Santa Fe, New Mexico 87501

To the Contractor: LLR Construction, LLC
 Attn: Doug Langley
 1000 Cordova Place #91
 Santa Fe, New Mexico 87505

20.2 Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed to either party may be changed by written notice given by such party to the other as hereinabove provided.

21. RELEASE

The Contractor, upon final payment of the amounts due under this Agreement, releases the County, the County's officers and employees from all liabilities and obligations arising from or under this Agreement, including, without limitation, all damages, losses, costs, liability, and expenses, including, without limitation, attorney's fees and costs of litigation that the Contractor may have.

22. WAIVER

No provision of this Agreement shall be deemed to have been waived by either party unless such waiver be in writing signed by the party making the waiver and addressed to the other party; nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of either party to insist upon performance by the other party in strict accordance with the terms hereof. Further, the waiver by any party of a breach by the other party of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

CONDITIONS OF THE WORK

1. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

- 1.1 The Contractor will be furnished additional instructions and detail drawings as necessary to carry out the work included in the Contract. The additional drawings and instructions supplied to the Contractor will coordinate with the Contract Documents and will be so prepared that they can be reasonably interpreted as part thereof. The Contractor shall carry out the work in accordance with the additional detail drawings and instructions. The Contractor and the Architect/Engineer/County will prepare jointly (a) a schedule, fixing the dates at which special detail drawings will be required, such drawings, if any, to be furnished by the Architect/ Engineer/County in accordance with the schedule, and (b) a schedule fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment, and the completion of the various parts of the work; each schedule to be subject to change from time to time in accordance with progress of the work.

2. SHOP OR SETTING DRAWINGS

- 2.1 The Contractor shall submit promptly to the Architect/Engineer/County two (2) copies of each shop or setting drawing prepared in accordance with the schedule predetermined as aforesaid. After examination of such drawings by the Architect/Engineer/County and the return thereof, the Contractor shall make such corrections to the drawings as have been indicated and shall furnish the Architect/ Engineer/County with two corrected copies. If requested by the Architect/Engineer/County the Contractor must furnish additional copies. Regardless of corrections made in or approval given to such drawings by the Architect/Engineer/County, the Contractor will be responsible for the accuracy of such drawings and for their conformity to the Plans and Specifications, unless the Contractor notifies the Architect/Engineer/County in writing of any deviations at the time the Contractor furnishes such drawings.

3. MATERIALS, SERVICES AND FACILITIES

3.1 It is understood that except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

3.2 Any work necessary to be performed after regular working hours, on Sundays or legal holidays, shall be performed without additional expense to the County.

4. CONTRACTOR'S TITLE TO MATERIALS

- 4.1 No materials or supplies for the work shall be purchased by the Contractor or by any subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he/she has good title to all materials and supplies used by him/her in the work, free from all liens, claims or encumbrances.

5. INSPECTION AND TESTING OF MATERIALS

- 5.1 All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The laboratory or inspection agency shall be selected by the County. The County will pay for all laboratory inspection service direct, and not as a part of the Contract.
- 5.2 Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.

6. "OR EQUAL" CLAUSE

- 6.1 Whenever a material, article or piece of equipment is identified on the plans or in the specifications by reference to manufacturers' or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment or other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article, or equipment so proposed, is, in the opinion of the Architect/Engineer/County, of equal substance and function. It shall not be purchased or installed by the Contractor without the Architect/Engineer/County's written approval.

7. PATENTS

- 7.1 The Contractor shall hold and save the County and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the County, unless otherwise specifically stipulated in the Contract Documents.
- 7.2 License and/or Royalty Fees for the use of a process which is authorized by the County of the project must be reasonable, and paid to the holder of the patent, or its authorized licensee, direct by the County and not by or through the Contractor.
- 7.3 If the Contractor uses any design, device or materials covered by letters, patent or copyright, the Contractor shall provide for such use by suitable agreement with the County of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, the Contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or its Sureties shall indemnify and save harmless the County of the

project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials, or any trademark or copyright in connection with work agreed to be performed under this Contract, and shall indemnify the County for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after, completion of the work.

8. SURVEYS, PERMITS AND REGULATIONS

- 8.1 Unless otherwise expressly provided for in the Specifications, the County will furnish to the Contractor all surveys necessary for the execution of the work.
- 8.2 Unless otherwise expressly provided for in the Specifications, the Contractor shall procure and pay all permits, licenses and approvals necessary for the execution of this Contract.
- 8.3 The Contractor shall comply with all laws, ordinances, rules, orders, and regulations relating to performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences or other protective facilities.

9. CONTRACTOR'S OBLIGATIONS

- 9.1 The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish all supplies and materials, machinery, equipment, facilities and means, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work required by this Contract, within the time herein specified. The Contractor will perform the Work in accordance with the provisions of this Contract and said specifications and in accordance with the plans and drawings covered by this Contract any and all supplemental plans and drawings, and in accordance with the directions of the Architect/Engineer/County as given from time to time during the progress of the work. The Contractor shall furnish, erect, maintain, and remove such construction plans and such temporary works as may be required.
- 9.2 The Contractor shall observe, comply with, and be subject to all terms, conditions, requirements, and limitations of the Contract and specifications, and shall do, carry on, and complete the entire work to the satisfaction of the Architect/Engineer and the County.

10. WEATHER CONDITIONS

- 10.1 In the event of temporary suspension of work, or during inclement weather, or whenever the Architect/Engineer/County shall direct, the Contractor will, and will cause its subcontractors to protect carefully its and their work and materials against damage or injury from the weather. If, in the opinion of the Architect/Engineer/County, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of its Subcontractors so to protect its work, such materials shall be removed and replaced at the expense of the Contractor.

11. PROTECTION OF WORK AND PROPERTY-EMERGENCY

- 11.1 The Contractor shall at all times safely guard the County’s property from injury or loss in connection with this Contract. The Contractor shall at all times safely guard and protect its own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury unless such is caused directly by errors contained in the Contract or by the County, or its duly authorized representatives.
- 11.2 In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Architect/Engineer/County, in a diligent manner. The Contractor shall notify the Architect/Engineer/County immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Architect/Engineer/County for approval.
- 11.3 Where the Contractor has not taken action but has notified the Architect/Engineer/County of an emergency threatening injury to persons or to damage to the work or any adjoining property, the Contractor shall act as instructed or authorized by the Architect/Engineer/County.
- 11.4 The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Paragraph 15 of these Conditions of the Work.

12. INSPECTION

- 12.1 The authorized representatives and agents of the County shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records.

13. REPORTS, RECORDS AND DATA

- 13.1 The Contractor shall submit to the County such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as the County may request concerning work performed or to be performed under this Contract.

14. SUPERINTENDENT BY CONTRACTOR

- 14.1 At the site of the work the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such representative shall be acceptable to the Architect/ Engineer/County and shall be one who can be continued in that capacity for the particular job involved unless he/she ceases to be on the Contractor's payroll.

15. CHANGES IN WORK

15.1 No changes in the work covered by the approved Contract Documents shall be made without having prior written approval of the County. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- A. Unit bid prices previously approved.
- B. An agreed lump sum.
- C. The actual cost of:
 - 1) Labor, including foremen;
 - 2) Materials entering permanently into the work;
 - 3) The County's or rental cost of construction equipment during the time of use on the extra work;
 - 4) Power and consumable supplies for the operation of power equipment;
 - 5) Insurance;
 - 6) Social Security and old age and unemployment contributions.
- D. To the costs for changes in work a fixed fee will be added to be agreed upon but not to exceed ten percent (10%) of the actual cost of the work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

16. EXTRAS

16.1 Without invalidating the contract, the County may order extra work or make changes by altering, adding to or deducting from the work, the contract sum being adjusted accordingly, and the consent of the Surety being first obtained where necessary or desirable. All the work of the kind bid upon shall be paid for at the price stipulated in the proposal, and no claims for any extra work or materials shall be allowed unless the work is ordered in writing by the County or the Architect/Engineer, acting officially for the County, and the price is stated in such order.

17. INSPECTION OF SERVICES

17.1 The Contractor shall provide and maintain an inspection system acceptable to the County covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the County during contract performance and for as long afterwards as the Contract requires.

17.2 The County has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The County shall perform inspections and tests in a manner that will not unduly delay the work.

17.3 If the County 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 these duties.

- 17.4** If any of the services do not conform with the Contract requirements, the County may require the Contractor to perform the services again in conformity with Contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the County may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the Contract sum to reflect the reduced value of the services performed.
- 17.5** If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, the County may by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the County that is directly related to the performance of such service, or terminate the Contract for default.

18. CORRECTION OF WORK

- 18.1** All work, all materials, whether incorporated in the work or not, all processes of manufacture, and all methods of construction shall be at all times and places subject to the inspection of the Architect/ Engineer/County who shall be the final judge of the quality and suitability of the work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should they fail to meet their approval they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at its own expense. Rejected material shall immediately be removed from the site. If, in the opinion of the Architect/Engineer/County, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the work injured or not performed in accordance with the Contract Documents, the compensation to be paid to the Contractor hereunder shall be reduced by such amount as in the judgment of the Architect/Engineer/County shall be equitable.

19. WARRANTY OF CONSTRUCTION

- 19.1** In addition to any other warranties in this Contract, the Contractor warrants that work performed under this Contract conforms to the Contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.
- 19.2** This warranty shall continue for a period of one (1) year from the date of final acceptance of the work. If the County takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one (1) year from the date the County takes possession.
- 19.3** The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to County-owned or controlled real or personal property, when that damage is the result of the Contractor's failure to conform to contract requirements or any defect of equipment, material, workmanship, or design furnished.

- 19.4 The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.
- 19.5 The County shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.
- 19.6 If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the County shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- 19.7 With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this Contract, the Contractor shall obtain all warranties that would be given in normal commercial practice; require all warranties to be executed, in writing, for the benefit of the County, if directed by the County; and, enforce all warranties for the benefit of the County, if directed by the County.
- 19.8 In the event the Contractor's warranty under subparagraph 19.4 of this clause has expired, the County may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.
- 19.9 Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the County nor for the repair of any damage that results from any defect in County-furnished material or design.
- 19.10 This warranty shall not limit the County's rights under the Inspection and Acceptance clause of this Contract with respect to latent defects, gross mistakes, or fraud.

20. SUBSURFACE CONDITIONS FOUND DIFFERENT

- 20.1 Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, the Contractor shall immediately give notice to the Architect/Engineer/County of such conditions before they are disturbed. The Architect/Engineer/County will thereupon promptly investigate the conditions, and if they find that they materially differ from those shown on the Plans or indicated in the Specifications, they will at once make such changes in the Plans and/or Specifications as they may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 15 above.

21. CLAIMS FOR EXTRA COST

- 21.1 No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order of the Architect/Engineer approved by the County, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work

is performed under the terms of General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the County, giving the County access to accounts relating thereto.

22. CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

22.1 Immediately after execution and delivery of the Contract, and before the first partial payment is made, the Contractor shall deliver to the County an estimated construction progress schedule in a form satisfactory to the County, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract Documents and the anticipated amount of each monthly payment that will become due to the Contractor in accordance with the progress schedule. The Contractor shall also furnish on forms to be supplied by the County (a) a detailed estimate giving a complete breakdown of the Contract sum and (b) periodic itemized estimates of work done for the purpose of making partial payments thereof. The costs employed in making up any of these schedules will be used only for determining the basis of partial payments and will not be considered as fixing a basis for additions to or deductions from the Contract price.

22.2 Schedule

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit five (5) copies of a progress schedule covering project operations for the 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.

23. ASSIGNMENTS

23.1 The Contractor shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the County. In case the Contractor assigns all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims of all persons, firms and corporations of services rendered or materials supplied for the performance of the work called for in this Contract.

24. MUTUAL RESPONSIBILITY OF CONTRACTORS

24.1 If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration if such other Contractor or subcontractors will so settle. If such other Contractor or subcontractor shall assert any

claim against the County on account of any damage alleged to have been sustained, the County shall notify the Contractor, who shall indemnify and save harmless the County against any such claim.

25. SEPARATE CONTRACT

25.1 The Contractor shall coordinate its operations with those of other contractors. Cooperation will be required in the arrangement for the storage of materials and in the detailed execution of the work. The Contractor, including its subcontractors, shall keep informed of the progress and the detail work of other contractors and shall notify the Architect/Engineer/County immediately of lack of progress or defective workmanship on the part of other contractors. Failure of a contractor to keep informed of the work progressing on the site and failure to give notice of lack of progress or defective workmanship by others shall be construed as acceptance by the Contractor of the status of the work as being satisfactory for proper coordination with its own work.

26. ARCHITECT/ENGINEER'S AUTHORITY

26.1 The Architect/Engineer/County shall give all orders and directions contemplated under this Contract and specifications, relative to the execution of the work. The Architect/Engineer/County shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said work and the construction thereof. The Architect/Engineer/County's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the Architect/Engineer/County shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.

26.2 The Architect/Engineer/County shall decide the meaning and intent of any portion of the specifications and of any plans or drawings where the same may be found obscure or be in dispute. Any differences or conflicts in regard to their work which may arise between the Contractor under this Contract and other Contractors performing work for the County shall be adjusted and determined by the Architect/Engineer/County.

27. STATED ALLOWANCES

27.1 It is understood that Contractor has included in its proposal for the Contract sum all allowances including "Allowed Materials" The Contractor shall purchase the "Allowed Materials" as directed by the County on the basis of the lowest and best bid of at least three competitive bids. If the actual sum for purchasing the "Allowed Materials" is more or less than the "Cash Allowance," the Contract sum shall be adjusted accordingly. The adjustment in contract price shall be made on the basis of the purchase price without additional charges for overhead, profit, insurance or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable sections

of the Contract Specifications covering this work.

28. USE OF PREMISES AND REMOVAL OF DEBRIS

28.1 The Contractor expressly undertakes at its own expense:

- A. to take every precaution against injuries to persons or damage to property;
- B. to store its apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of its work or the work of any other subcontractors;
- C. to place upon the work or any part thereof only such loads as are consistent with the safety of the portion of the work;
- D. to clean up frequently all refuse, rubbish, scrap materials, and debris caused by its operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;
- E. before final payment to remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from its operations, and to put the site in a neat, orderly condition.
- F. to effect all cutting, fitting or patching of its work required to make the same to conform to the plans and specifications and, except with the consent of the Architect/Engineer/County, not to cut or otherwise alter the work of any other Contractor.

29. QUANTITIES OF ESTIMATE

29.1 Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the County to complete the work contemplated by this Contract, and such increase or diminution shall in no way void this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

30. LANDS AND RIGHTS-OF-WAY

30.1 Prior to the start of construction, the County shall obtain all lands and rights-of-way necessary for the carrying out and completions of work to be performed under this Contract.

31. GENERAL GUARANTY

31.1 Neither the final certificate of payment nor any provision in the Contract Documents, nor partial or entire occupancy of the premises by the County, shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1)

year from the date of final acceptance of the work unless a longer period is specified. The County will give notice of observed defects with reasonable promptness.

32. PROTECTION OF LIVES AND HEALTH

32.1 The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of its prosecution of the work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as the County may determine to be reasonably necessary.

33. INTEREST OF MEMBER

33.1 No member of Santa Fe Board of County Commissioners shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

34. OTHER PROHIBITED INTERESTS

34.1 No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the County who is authorized in such capacity and on behalf of the County to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

35. USE AND OCCUPANCY PRIOR TO ACCEPTANCE BY COUNTY

- 35.1 The Contractor agrees to the use and/or occupancy of a portion or unit of the project before formal acceptance by the County, provided the County:
- A. Secures written consent of the Contractor except in the event, in the opinion of the Architect/ Engineer, the Contractor is chargeable with unwarranted delay in final cleanup of punch list items or other contract requirements.
 - B. Secures endorsement from the insurance carrier and consent of the surety permitting occupancy of the building or use of the project during the remaining period of construction.
 - C. When the project consists of more than one building, and one of the buildings is occupied, secures permanent fire and extended coverage insurance, including a permit to complete construction. Consent of the surety must also be obtained.

ATTACHMENT A

BID SHEETS



Agreement No. 2016-0114-FD/MM



Additive Alternate #3

Split rail fence at property line

Lump Sum Additive Alternate #3: ~~5,325.80~~ 3,805.00

Written in Words (Base Bid): ~~Four Thousand Three Hundred Twenty Six Dollars and Eighty Cents~~

Three thousand eight hundred five dollars and no cents

Additive Alternate #4

Well and Well-Housing (including termination for connection to the Cistern). The connection to the Cistern is in the base bid.

Item Number	Item Description	Unit	Quantity	Unit Cost	Total Cost
1	Mobilization	L.S.	1	3,500.00	3,500.00
2	8" PVC Surface Casing	Lin. Ft.	50	25.00	1,250.00
3	Drill, Install and Grout PVC Surface Casing	Lin. Ft.	50	45.00	2,250.00
4	Drill Hole for 5" Casing 50' to 100'	Lin. Ft.	50	25.00	1,250.00
5	Drill Hole for 5" Casing 100' to 200' Depth	Lin. Ft.	100	20.00	2,000.00
6	Drill Hole for 5" Casing 200' to 300' Depth	Lin. Ft.	100	20.00	2,000.00
7	Drill Hole for 5" Casing 300' to 400' Depth	Lin. Ft.	100	20.00	2,000.00
8	Furnish and Install 5" PVC Casing	Lin. Ft.	400	17.00	6,800.00
9	Furnish and Install Stainless Steel Well Screen	Lin. Ft.	50	75.00	3,750.00
10	Gravel Packing in Place	Lin. Ft.	300	10.00	3,000.00
11	Surging and Development	Hour	10	250.00	2,500.00
12	Test Pumping for Pump	Hour	5	175.00	875.00
13	Water Well Cleaning & Disinfection	L.S.	1	1,200.00	1,200.00
14	Testing Services Soil Water & Material (Allowance)	L.S.	1	850.00	850.00
15	1 1/2 HP Submersible Pump Install complete Red Lion RL12G15-3W2V or approved equal	L.S.	1	2,450.00	2,450.00
16	Furnish 1 1/2" Water Supply pipe from pump to well housing. Include torque arrestor & pitless adaptor per manufacturer specs	Lin. Ft.	500	3.00	1,500.00
17	Furnish pump control box with pressure switch (Red Lion RLCM15-230 or equal) complete	L.S.	1	450.00	450.00
18	Furnish 8 gauge electrical wire from well housing to pump per manufacturer specs	Lin. Ft.	500	3.00	1,500.00
19	Well housing with bladder tanks, meter, valves, well controls and piping (complete)	L.S.	1	7,563.00	7,563.00
Additive Alternate # 4 Total					46,630.00

Forty seven thousand Five hundred sixty three dollars and no cents 47563.00
 (with bond included)

BID SHEET

IFB# 2016-0114-FD/MM

CONSTRUCTION SERVICES FOR THE GLORIETA FIRE STATION NO. 2

Please offer your best price for the work required for the construction of the Glorieta Fire Station No.2. The lump sum base bid must include pricing for materials, equipment, labor, travel, incidentals and fees for any required permitting. Be advised that award may be made without discussion with bidders on offers received.

Item Description

1. Construction Services for the Glorieta Fire Station No. 2

Lump Sum Base Bid: 959,124.00

Written in Words (Base Bid): Nine Hundred Fifty Nine thousand one hundred twenty four dollars and no cents

Additive Alternate #1

Standing seam metal roof instead of R-panel roof (base bid: R-panel metal roof) - make adjustments to trim/fasteners/etc. as required

Lump Sum Additive Alternate #1: ~~\$12,000.00~~ 11,016.00

Written in Words (Base Bid): ~~Twelve Thousand Dollars and No Cents~~
Eleven thousand sixteen dollars and no cents

Additive Alternate #2

Flagpole (base bid: conduit for flagpole lighting)

Lump Sum Additive Alternate #2: ~~\$2,235.32~~ 19165.00

Written in Words (Base Bid): ~~Two Thousand Two Hundred Thirty Five Dollars and Thirty Two Cents~~
one thousand nine hundred sixty five dollars and no cents

Note: Lump sum base bid is exclusive of New Mexico Gross Receipts Tax

ATTACHMENT B
ADDENDA & MODIFICATIONS



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

November 10, 2015

SANTA FE COUNTY
IFB#2016-0114-PW/MM
Construction Services for the Glorieta Fire Station No. 2

ADDENDUM #1

Dear Proponents,

This addendum is issued to reflect the following immediately. It shall be the responsibility of interested bidders to adhere to any changes or revisions to the IFB as identified in this Addendum No. 1. This documentation shall become permanent and made part of the departmental files.

ATTACHMENT A: PRE-BID SIGN IN SHEET
ATTACHMENT B: PLAN COVER
ATTACHMENT C: TECHNICAL SPECIFICATIONS TABLE OF CONTENTS
ATTACHMENT D: SECTION 01230 – ALTERNATES
ATTACHMENT E: ROOF PLAN

Listed below are clarifications of the IFB and questions received via email concerning the above referenced IFB.

Question# 1- What is the estimated start date for this project?

Answer# 1- *January 10, 2016*

Question# 2- Is this location safe to leave equipment overnight?

Answer# 2- *The County is not responsible for any theft or vandalism to personal property.*

Question# 3- What is the nearest location for water?

Answer# 3- *There is not a water department, but there will be water available at the Glorieta Baptist Conference Center. The Contractor will need to make*

arrangements with the Glorieta Baptist Conference Center for water (and a meter). Temporary water and temporary power will be allowances. See new section 01210, Allowances, attached.

Question# 4- What happens if the weather is bad?

Answer# 4- *Weather days will be granted with approved documentation presented on the day the weather day is being requested. The weather days will extend the days of the contractor through a change order.*

Question# 5- Is it known how deep we will have to drill for the well?

Answer# 5- *See Spec Section 02999 – Well for information about the well including depth.*

Question# 6- Are we responsible for relocating the ground hogs/gofers?

Answer# 6- *An investigation was performed and no Gunnison Prairie Dogs were discovered on the property.*

PROJECT MANUAL, TECHNICAL SPECIFICATIONS

Technical Specification Table of Contents

Change:

Use new version of this specification, attached.

Section 01100 - Summary

Add:

The Contractor shall submit the ED permit, well permit and septic permit to Santa Fe County Land Use (José Larrañaga) prior to beginning any work.

Section 01230 - Alternates

Change:

Use new version of this specification, attached.

Section 02999 - Well

Change:

The well tabulation sheet shall be submitted with the bid.

DRAWINGS

Sheet A0.0

Change:

Use new version of this specification, attached. This new sheet reflects Alternates accurately.

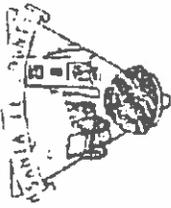
Sheet A1.0

Change:

Use new version of this specification, attached.

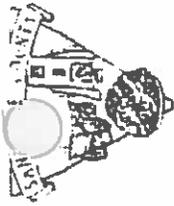
Please add this Addendum #1 to the original bid documents and refer to bid documents, hereto as such. This and all subsequent addenda will become part of any resulting contract documents and have effects as if original issued. All other unaffected sections will have their original interpretation and remain in full force and effect.

Responders are reminded that any questions or need for clarification must be addressed to Maricela Martinez, Senior Procurement Specialist at mcmartinez@santafecountnm.gov.



MANDATORY PRE BID CONFERENCE
IFB# 2016-0114-FD/MM
CONSTRUCTION SERVICES FOR THE GLORIETA FIRE STATION NO. 2
THURSDAY, OCTOBER 29, 2015
2:00 PM

NAME	COMPANY	TELEPHONE	E-MAIL ADDRESS
Alfred Fernandez	Sierra Builders	480-732-1503	sierrabldrs.com
Michael Cleofelton	Prime Builders	505-924-0459	MC100feller@primbuilders.com
Eric Johnson	Prime Builders	505-924-0459	ericjohnson@primbuilders.com
Eric Brink	Century Construction	505-374-4440	erickbrink@centuryconstruction.com
Alison Lutz	Platinum Builders	505-374-4440	alisonlutz@platinum.com
Paul Sandoval	SF County	505-412-7853	paul.sandoval@sfcounty.gov
Paul Sandoval	SF County	505-412-7853	paul.sandoval@sfcounty.gov
Paul Sandoval	SF County	505-412-7853	paul.sandoval@sfcounty.gov



MANDATORY PRE BID CONFERENCE
IFB# 2016-0114-FD/MM
CONSTRUCTION SERVICES FOR THE GLORIETA FIRE STATION NO. 2
THURSDAY, OCTOBER 29, 2015
2:00 PM

Attachment A con't.

NAME	COMPANY	TELEPHONE	E-MAIL ADDRESS
<i>Michael Randall</i>	<i>McCoy Construction</i>	<i>505-887-2035</i>	<i>mccoy@mc-coy.com</i>
<i>David Randall</i>	<i>McCoy Construction</i>	<i>505-341-4037</i>	<i>David@mc-coy.com</i>
<i>Jack Hugelstad</i>	<i>Hessia West</i>	<i>502-848-1944</i>	<i>Hugelstad@hessia.com</i>
<i>Michael Hugelstad</i>	<i>Hessia West</i>	<i>502-848-1944</i>	<i>Hugelstad@hessia.com</i>
<i>Robert D. D...</i>	<i>Procedural Services</i>	<i>913-565-5050</i>	<i>Procedural@procedural.com</i>
<i>Rebecca Garcia</i>	<i>RAM Construction</i>	<i>(505) 27-8768</i>	<i>REBECA@RAMCONSTRUCTION.COM</i>
<i>Ray Casias</i>	<i>ABC General Contractors</i>	<i>505 511-4242</i>	<i>ray@ABC-con.com</i>
<i>Bill Lewis</i>	<i>Longhorn Const. Serv.</i>	<i>505 558-1360</i>	<i>LESINC@conconf.net</i>
<i>Michael Hugelstad</i>			

TECHNICAL SPECIFICATIONS

SANTA FE COUNTY FIRE DEPARTMENT
GLORIETA FIRE STATION 2

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SECTION 01230 - ALTERNATES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for alternates.

1.3 DEFINITIONS

- A. Alternate: An amount proposed by bidders and stated on the Bid Form for certain work defined in the Bidding Requirements that may be added to or deducted from the Base Bid amount if Owner decides to accept a corresponding change either in the amount of construction to be completed or in the products, materials, equipment, systems, or installation methods described in the Contract Documents.
 - 1. The cost or credit for each alternate is the net addition to or deduction from the Contract Sum to incorporate alternate into the Work. No other adjustments are made to the Contract Sum.

1.4 PROCEDURES

- A. Coordination: Modify or adjust affected adjacent work as necessary to completely integrate work of the alternate into Project.
 - 1. Include as part of each alternate, miscellaneous devices, accessory objects, and similar items incidental to or required for a complete installation whether or not indicated as part of alternate.
- B. Notification: Immediately following award of the Contract, notify each party involved, in writing, of the status of each alternate. Indicate if alternates have been accepted, rejected, or deferred for later consideration. Include a complete description of negotiated modifications to alternates.
- C. Execute accepted alternates under the same conditions as other work of the Contract.
- D. Schedule: A Schedule of Alternates is included at the end of this Section. Specification Sections referenced in schedule contain requirements for materials necessary to achieve the work described under each alternate.
- E. Alternates may be taken in any order.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 SCHEDULE OF ALTERNATES

- A. Add Alternate No. 1 – Standing seam metal roof instead of R-panel roof (base bid: R-panel metal roof) - make adjustments to trim/fasteners/etc. as required
- B. Add Alternate No. 2 – Flagpole (base bid: conduit for flagpole lighting)
- C. Add Alternate No. 3 - Split rail fence at property line
- D. Add Alternate No. 4 - Well and Well-Housing (including termination for connection to the Cistern). The connection to the Cistern is in he Base Bid.

END OF SECTION 01230

EXHIBIT A
PROJECT MANUAL

EXHIBIT B

TECHNICAL SPECIFICATIONS AS LISTED IN PLAN SET

EXHIBIT C

LABOR AND MATERIAL PAYMENT BOND (SAMPLE)

KNOW ALL MEN BY THESE PRESENT, THAT WE _____
 _____ as PRINCIPAL hereinafter called the "PRINCIPAL and
 _____ as SURETY hereinafter called the "SURETY", are held and
 firmly bound unto Santa Fe County, a Political Subdivision of the State of New Mexico as OBLIGEE
 hereinafter called the "COUNTY", for the use and benefit of any claimants as herein below defined, in
 the amount of _____ (\$.) dollars for the payment whereof
 PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors, and
 assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL has a written contract dated _____, 2016, with the
 COUNTY for the construction services for the Glorieta Fire Station No. 2 in Santa Fe County, New
 Mexico, which must be constructed in accordance with drawings and specifications which contract is
 referenced and made a part hereof, and is hereinafter referred to as the "Contract."

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if PRINCIPAL shall
 promptly make payment to all claimants as hereinafter defined, for all labor and material used or
 reasonably required for use in the performance of the Contract, then this obligation shall be void;
 otherwise, it shall remain in full force and effect, subject to the following conditions:

1. A claimant is defined as one having a direct contract with the PRINCIPAL or with a
 subcontractor of the PRINCIPAL for labor, material, or both, used or reasonably required for
 use in the performance of the Contract, labor and material being construed to include but not
 be limited to that part of water, gas, power, light, heat, oil, gasoline, telephone services or
 rental of equipment directly applicable to the Contract.

2. The above named PRINCIPAL and SURETY hereby jointly and severally agree with the
 COUNTY that every claimant as herein defined, who has not been paid in full before the
 expiration of a period of ninety (90) days after the date on which the last of such claimant's
 work or labor was done or performed, or materials were furnished by such claimant,
 prosecute a suit to final judgment for such sum or sums as may be justly due claimant, and
 have execution thereof. The COUNTY shall not be liable for payment of any cost or
 expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, or other than one having a direct contract with the PRINCIPAL,
 shall have written notice in the form of an sworn statement to the COUNTY and any
 one or both of the following: the PRINCIPAL or SURETY above named, within
 ninety (90) days after such said claim is made or suit filed, stating with substantial
 accuracy the amount claimed and the name of the party to whom the materials were
 furnished, or for whom the work or labor was done or performed.

 - b. Such notice shall be served by mailing the same by registered mail or certified mail,
 postage prepaid, in an envelope addressed to the COUNTY, PRINCIPAL or
 SURETY, at any place where an office is regularly maintained by said COUNTY,

PRINCIPAL or SURETY for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer.

- 4. Any suit under this Labor and Material Bond must be instituted in accordance with the statute of limitation under Section 37-1-3 NMSA 1978.
- 5. No right of action shall accrue on this Bond to or for the use of any person or corporation other than subcontractors or sub-subcontractors of the said Contract between PRINCIPAL and Santa Fe County named herein.

SIGNED AND SEALED THIS _____ DAY OF _____, 2016.

CONTRACTOR – PRINCIPAL (signature)

By: _____
(Printed name and title)

NOTARY PUBLIC

(seal)

My Commission expires: _____

SURETY (signature)

(Printed name and title)

NOTARY PUBLIC

(seal)

My Commission expires: _____

SURETY'S Authorized New Mexico Agent

EXHIBIT D

PERFORMANCE BOND (SAMPLE)

A. KNOW ALL MEN BY THESE PRESENT, THAT WE _____, as PRINCIPAL hereinafter called the "CONTRACTOR" and _____, as SURETY hereinafter called the "SURETY", are held and firmly bound unto OBLIGEE Santa Fe County, a Political Subdivision of the State of New Mexico, hereinafter called the "COUNTY", in the sum of _____ (\$ _____) dollars for the payment whereof CONTRACTOR and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

B. WHEREAS, the CONTRACTOR has a written contract dated _____, 2016, with the COUNTY for the construction services for the Glorieta Fire Station No. 2 Santa Fe County, New Mexico, in accordance with drawings and specifications which contract is referenced made part hereof, and is hereinafter referred to as the "Contract."

C. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if CONTRACTOR shall promptly and faithfully perform said Contract (including any amendment thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect until the COUNTY shall by written instrument notify the SURETY that the obligation is discharged, except that the obligation shall continue for at least three (3) months following the expiration of the term of the Contract.

1. The SURETY hereby waives notice of any alteration or extension of the Contract time made by the COUNTY.
2. Whenever CONTRACTOR shall be, and is declared by the COUNTY to be in default under the Contract, the COUNTY having performed the COUNTY'S obligations thereunder, the SURETY must promptly remedy the default and shall promptly:
 - (1) Complete the Contract in accordance with its terms and conditions, or
 - (2) Obtain a bid or bids for submission to the COUNTY for completing the Contract in accordance with its terms and conditions, and upon determination by the COUNTY and SURETY of the lowest responsible bidder, arrange for a contract between such bidder and Santa Fe County, and make available as work progresses (even though there should be a default or a secession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price, but not exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract price" as used in this paragraph, shall mean the total amount payable by the COUNTY to CONTRACTOR under the Contract and any amendments thereto, less the amount properly paid by the COUNTY to CONTRACTOR.

D. No right of action shall accrue on this Performance Bond to or for the use of any person or corporation other than Santa Fe County named herein or the heirs, executors, administrators, or successors of Santa Fe County.

E. This Bond shall be enforceable without the need to have recourse to any judicial or arbitral proceedings.

SIGNED AND SEALED THIS _____ DAY OF _____, 2016.

CONTRACTOR – PRINCIPAL (signature)

By: _____
(Printed name and title)

NOTARY PUBLIC

(seal)

My Commission expires: _____

SURETY (signature)

(Printed name and title)

NOTARY PUBLIC

(seal)

My Commission expires: _____

SURETY'S Authorized New Mexico Agent

EXHIBIT E

ASSIGNMENT OF ANTITRUST CLAIMS

TO BE EXECUTED BY GENERAL CONTRACTORS, SUBCONTRACTORS, SUPPLIERS,
AND SUBSUBCONTRACTORS OF CONTRACTORS ON COUNTY CONTRACTS.

FIRM NAME:
ADDRESS:

PROJECT:

PHONE NO.:

PROJECT NO:

_____ agrees that any and all claims which it may have or may incur to it for overcharges resulting from antitrust violations as to goods, services, and materials purchased in connection with the above-referenced project are hereby assigned to Santa Fe County, but only to the extent that such overcharges are passed on to the County. It is agreed that the undersigned retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the County, including the right to any treble damages attributable thereto.

FIRM: _____

BY: _____
Signed by Individual empowered to obligate Suppliers,
Subcontractors or Subsubcontractors

TITLE: _____

EXHIBIT F
CERTIFICATE OF LIABILITY INSURANCE

EXHIBIT G

NOTICE OF CONTRACT AWARD

TO:

FROM: _____, Public Works Department

CONTRACT NO. _____

This is to inform that you that you have been awarded the Contract for:

Project Name: _____

Date of Award _____ Amount of Award _____

Contractor Information:

Firm Name: _____ License# _____

Address: _____ Phone # _____

It is anticipated that construction will take place:

Approximate Starting Date: _____ Approximate Completion Date: _____

Santa Fe County hereby accepts your offer on the solicitation No. _____ as reflected in this award document. The rights and obligations of the parties shall be subject to and governed by this document and any documents attached or incorporated by reference.

SANTA FE COUNTY

Name of Public Works Director or designee: _____
(Print Name)

Signature

EXHIBIT H

NOTICE TO PROCEED

TO: DATE:
PROJECT:

ATTN: PROJECT NO.
CONTRACT NO.
IFB NO.

Enclosed is your copy of the Contract, which has been approved. Please consider this letter as official NOTICE TO PROCEED on the above-referenced project.

Your firm shall commence work within ten (10) calendar days of the above date and shall achieve Substantial Completion _____ calendar days thereafter, which shall be _____, 2016, unless modified by Change Order.

It is essential that you make reference to the above-stated project number on all documents sent to the Architect/Engineer from your office. These documents shall include correspondence, change order proposals, change orders, payment request statements, and all other project-related material which you forward to the Architect/Engineer for information and processing.

Also, before you may start any Work at the site, you must (add any other requirements):

OWNER: Santa Fe County
SFC _____ DEPARTMENT

By: _____
Director, SFC Department

EXHIBIT I

CHANGE ORDER

PROJECT:

CONTRACTOR
CHANGE ORDER NO:

ARCHITECT/ENGINEER

PROJECT NO:

Contractor Telephone:
Contractor e-mail:
ENGINEER'S/ARCHITECT'S PROJECT NO:

CHANGE ORDER JUSTIFICATION (Provide definitive reason for proposed change order.)

You are directed to make the following changes in this Contract: (Provide a detailed description of the Scope of the Work.)

NOT VALID UNTIL SIGNED BY BOTH THE COUNTY AND THE ARCHITECT/ENGINEER.
Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

The Original Contract Sum was	
Net change by previously authorized Change Orders	\$0.00
The Contract Sum prior to this Change Order was he Contract Sum will be increased/decreased/unchanged	
by this Change Order in the amount of	\$0.00
The new contract Sum including this Change Order will be	\$0.00
The Contract Time will be increased/decreased/unchanged by ___ days.	
The date of Substantial Completion as of the date of this Change Order therefore is:	_____

CHANGE ORDER SIGNATURE PAGE

REVIEWED

Santa Fe County

By: _____

Date: _____

AGREED AND RECOMMENDED

CONTRACTOR

By: _____

Date: _____

Title: _____

ARCHITECT/ENGINEER

By: _____

Date: _____

APPROVED

SANTA FE COUNTY

By: _____

Date: _____

EXHIBIT J

CERTIFICATE OF SUBSTANTIAL COMPLETION

SANTA FE COUNTY – (INSERT DEPARTMENT)

Public Works Director or designee (name): _____

CONTRACTOR: _____

Contractor Purchase Order Number: _____

ARCHITECT/ENGINEER: _____

Project Name: _____

Contract Date: _____

Project Description - Article 2 to Agreement Between Santa Fe County and Contractor (include address and project location description):

The contractor hereby certifies the Work of this project to be in complete conformance to the Contract Documents and is substantially complete, enabling the County to make use of the Work as intended.

By its signature below the Contractor further requests Architect/Engineer and County to inspect the Work and to concur in the Work's substantial completion by their signature and/or to provide in a timely manner to Contractor a listing of work items adjudged by them as remaining to be completed or corrected. Contractor agrees to complete and correct all work items (Punch List) representative of such listing within ___ days from date of receipt from Architect/Engineer.

Contractor

Signature

Print Name

Date

Accepted by Santa Fe County

Signature (Public Works Director or Designee)

Print Name

Date

Inspected/Concurrence Architect/Engineer

Signature

Print Name

Date

PUNCH LIST

A list of items (Punch List) to be completed or corrected, verified by the Architect/Engineer and County, is appended hereto. Failure to include any incomplete items on such list does not alter the responsibility of the Contractor to provide all Work in complete conformance with the Contract Documents.

The Contractor shall complete or correct the work on the punch list appended hereto by _____
(Date)

The punch list consists of _____ (indicate number of items) items.

The Work performed under this Contract has been reviewed and found to be substantially complete by the Director of Public Works who has hereby established the Date of Substantial Completion as _____ (date) which is also the date of commencement of all warranties and guarantees required by the Contract Documents. The Date of Substantial Completion of the Work or designated portion thereof is the date established by the Director of Public Works (or designee) when construction is sufficiently complete, in accordance with the Contract Documents, so the County may occupy the Work, or designated portion thereof, for the use for which it is intended.

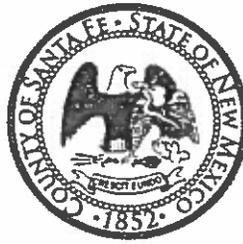
The County accepts the Work or designated portion thereof as substantially complete and assumes full possession thereof, in accordance with the contract documents.

Punch List Items: (Use additional sheets if necessary)

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: *December 11, 2015*

To: *Board of County Commissioners*

From: *Bill Taylor, Procurement Manager*

Via: *Katherine Miller, County Manager*
Jeff Trujillo, ASD Director
Rachel O'Connor Santa Fe County Community Services Department

ITEM AND ISSUE: BCC Meeting January 12, 2016

REQUEST APPROVAL OF PROFESSIONAL SERVICE AGREEMENT No. 2016-0150-DWI/BT WITH CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER, CARE CONNECTION IN THE AMOUNT OF \$300,000.00 TO PROVIDE DETOXIFICATION SERVICES IN FISCAL YEAR 2016 AND GRANT SIGNATURE AUTHORITY TO THE COUNTY MANAGER TO EXECUTE THE PURCHASE ORDER. *(Purchasing/Bill Taylor)*

Issue:

The Purchasing Division of ASD and the Community Services Department are requesting approval of Professional Service Agreement No. 2016-0150-DWI/BT with CHRISTUS St. Vincent Regional Medical Center, Care Connection to provide Santa Fe County residents with a professional alcohol and drug detoxification facility to serve public inebriates and others suffering from alcohol and/or drug addiction by providing safe temporary lodging, detoxification services and an opportunity to access treatment, thereby reducing the burden on law enforcement and on hospital emergency services.

Background:

Local DWI (LDWI) funds are generated from excise tax on the sale of alcohol, collected by the New Mexico Department of Taxation and Revenue, and administered by the Department of Finance and Administration (DFA). In addition to a distribution which funds the Santa Fe County DWI Program, the County is also eligible to receive \$300,000 to provide detoxification services in Santa Fe County.

The Purchasing Division issued a Request for Proposal (RFP) No. 2016-0150-DWI/BT on October 25, 2015. One responsive proposal was received from CHRISTUS St. Vincent Regional Medical Center. Their proposal was deemed to be acceptable based on their qualifications.

Recommendation:

Approval of the Professional Services Agreement No. 2016-0150-DWI/BT with Christus St. Vincent Regional Medical Center, Care Connection in the Amount of \$300,000.00 for FY2016 and grant signature authority to the County Manager to execute the Purchase Order.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER**

THIS AGREEMENT is made and entered into this _____ day of _____ 2016, between **SANTA FE COUNTY**, hereinafter referred to as the "County" and **CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER** whose principal address is 2052 S. Galisteo, Santa Fe, New Mexico hereinafter referred to as the "Contractor".

WHEREAS, the Santa Fe County Community Services Department, DWI Program, is seeking a qualified contractor to serve individuals suffering from alcohol and/or drug addiction by providing a safe, temporary lodging, detoxification services and an opportunity to access treatment or other services, thereby reducing the burden on law enforcement and on hospital emergency staff; and

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-117, competitive, sealed proposals were solicited through Request for Proposals No. 2016-0150-DWI/BT to obtain needed services to assist individuals suffering from alcohol and/or drug addiction; and

WHEREAS, the Contractor's proposal was the most highly rated proposal; and

WHEREAS, the County requires the services of the Contractor and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall provide the following services:

- 1) Manage a facility in which detoxification services for adult men and women are provided in a licensed and professional manner 24/7, 365 days a year and that promotes a community-wide, uniform approach to diversion from jail and from emergency department admissions, and provides other supportive resources to address alcohol or drug addiction. A minimum of 700 intakes of clients or patients into the facility shall be accomplished during the term of this Agreement.
- 2) Provide a clinical assessment for substance abuse and mental health issues and develop a treatment plan that includes level of care and type of services to be provided while receiving detoxification services. Provide behavioral health intervention services for adults undergoing detoxification and recommend treatment options for Sobering Center clients who are discharged from the Center. Prior to each client or patient's discharge from the Center, provide a discharge plan developed by a licensed drug and alcohol counselor that includes direct collaboration/communication with agency or agencies to which the client or patient is being referred.
- 3) Contractor's services will include services which reduce alcohol and drug addiction through an active referral and case management system, non-traditional healing therapeutic services, wrap-around services and access to other community resources.

- 4) Provide safe transportation of individuals or patients to the Contractor's detoxification facility.
- 5) Contractor's programs will continue to actively engage in program evaluation and quality assurance review.
- 6) Collect data in the form of written reports that will be used to evaluate the Contractor's facility and services. Data collection shall consist of information such as the number of individuals or patients services, the demographics of individuals or patients served, the substance abuse profiles of individuals or patients served, the number of individuals or patients treated for mental health issues the number of individuals or patients successfully treated and discharged, data relating to the Contractor's continuum of care and referral of individuals or patients to other resources and services, recidivism analysis, and number of client or patients who have received prior treatment at the Sobering Center. These data reports shall be submitted to the County DWI Planning Council Coordinator at the end of each month for the term of this Agreement.
- 7) In providing services under this Agreement, Contractor will ensure that it has a licensed physician on call at all times during the term of this Agreement and that there is one certified counselor for every eight clients or patients who provide direct counseling services to Sobering Center clients or patients. Contractor will provide documentation such as a written agreement or contract, to confirm the availability of a physician 24/7, 365 days per year during the term of this Agreement.
- 8) Submit the monthly data reports described in 6) above and the periodic written reports described in paragraph 3. A.1) below.

2. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Section 1 (Scope of Work), of this Agreement shall be completed in full, to the satisfaction of the County, in accordance with professional standards and for the amount set forth in Section 3 (Compensation, Invoicing and Set-off), of this Agreement, and for no other cost, amount, fee or expense.

B. The County may from time to time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in a written amendment to this Agreement.

3. COMPENSATION, INVOICING AND SET-OFF

A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

- 1) County shall pay to the Contractor for services performed to the satisfaction of County as follows:
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than January 31, 2016. Contractor's reports should contain aggregate data related to the numbers of clients served, demographics of

those clients, substance use profile, recidivism analysis and information detailing linkages to continue resources/services.

- \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than April 15, 2016.
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written final progress report that is due no later than June 30, 2016.
- 2) The total compensation payable to the Contractor under this Agreement shall not exceed three hundred thousand dollars (\$300,000.00), *inclusive* of New Mexico gross receipts tax.
- 3) 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. The County will notify Contractor 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.

B. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the deliverables for which payment is sought.

- 1) The County's representative for certification of acceptance or rejection of contractual items and services shall be Lupe Sanchez, Santa Fe County Community Services Department, DWI Planning Council Coordinator, (505) 992-9840, or such other individual as may be designated in the absence of the office representative.
- 2) The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual services or deliverables.
- 3) Within thirty (30) days of the issuance of a written certification accepting the services or deliverables, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

C. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.

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

4. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date of last signature by the parties. The initial term of this Agreement will be one year from the effective date, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The parties may agree to extend the term of this Agreement in one-year increments. In no event will the term of this Agreement exceed four (4) years in total.

5. TERMINATION

A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

6. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient

appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

7. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

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 advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

9. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

10. PERSONNEL

A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.

B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

11. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

12. CONFIDENTIALITY

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

13. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

A. The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.

B. The Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, the County shall own any such copyright.

14. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

15. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1 (Scope of Work), of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

16. ENTIRE AGREEMENT; INTEGRATION

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

17. NOTICE OF PENALTIES

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

18. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.

B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.

B. Contractor shall comply with the requirements of Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).

C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district courts of New Mexico, located in Santa Fe County.

20. RECORDS AND INSPECTIONS

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).

B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

21. INDEMNIFICATION

A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.

C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

22. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

23. NOTICES

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

To the County: Santa Fe County
Office of the County Attorney
102 Grant Avenue
P.O. Box 276
Santa Fe, New Mexico 87504-0276

To the Contractor: Christus St. Vincent Regional Medical Center
Attn: Kristin Carmichael, Director
Community Health
2052 S. Galisteo
Santa Fe, New Mexico 87505

24. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.

B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the New Mexico Secretary of State on Contractor's behalf.

C. Contractor is legally registered and is properly licensed by the State of New Mexico to provide the services anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

25. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

26. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

27. INSURANCE

A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.

B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. Santa Fe County shall be a named additional insured on the policy.

C. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

28. PERMITS, FEES, AND LICENSES

Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

29. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

30. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County (Appendix D).

31. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the last date of signature below.

SANTA FE COUNTY:

Chair
Santa Fe County Board of Commissioners

Date

ATTESTATION:

Geraldine Salazar
Santa Fe County Clerk

Date

**SANTA FE COUNTY
COMMUNITY SERVICES DEPARTMENT
DWI PROGRAM**

REQUEST FOR PROPOSALS



DETOXIFICATION SERVICES

RFP 2016-0150-DWI/BT

OCTOBER 2015

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I. ADVERTISEMENT

**REQUEST FOR PROPOSALS
SANTA FE COUNTY COMMUNITY SERVICES DEPARTMENT, DWI PROGRAM
DETOXIFICATION SERVICES**

RFP #2016-0150-DWI/BT

The Santa Fe County DWI Program is requesting proposals from qualified and licensed Offerors to perform Detoxification Services for individuals suffering from alcohol and/or drug addiction. All proposals submitted shall be valid for ninety (90) days subject to action by the County. Santa Fe County reserves the right to reject any and all proposals in part or in whole. A complete proposal shall be submitted in a sealed container indicating the proposal title and number along with the offeror's name and address clearly marked on the outside of the container. **All proposals must be received by 2:00 PM (Mountain Standard Time) on November 17, 2015, at the Santa Fe County Purchasing Division, 142 W. Palace Avenue, Second Floor, Santa Fe, New Mexico 87501.** By submitting a proposal for the requested services, each offeror is certifying that its proposal complies with requirements stated in the Request for Proposals.

A non-mandatory Pre-Proposal Conference shall be held on November 3, 2015, at 10:00 AM at the Santa Fe County Community Services/Health and Human Services Office, located at 2052 Galisteo Street , Santa Fe, NM 87505 for all interested Offerors to review and discuss the proposal packet.

EQUAL OPPORTUNITY EMPLOYMENT: All qualified offerors will receive consideration of contract(s) without regard to race, color, religion, sex or national origin.

Request for Proposals are available by contacting Rose Moya, Procurement Specialist Senior at 142 W. Palace Avenue, Second Floor, Santa Fe, New Mexico 87501, or by telephone at (505) 992-6753, or by email at rmoya@santafecountynm.gov or on the county's website at http://www.santafecountynm.gov/asd/current_bid_solicitations

PROPOSALS RECEIVED AFTER THE DATE AND TIME SPECIFIED ABOVE WILL NOT BE CONSIDERED AND WILL BE REJECTED BY SANTA FE COUNTY.

Santa Fe County
Purchasing Division

II. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSAL

The Santa Fe County Community Services Department, DWI program is seeking a qualified entity to serve individuals suffering from alcohol and/or drug addiction by providing a safe, temporary lodging, detoxification services and an opportunity to access treatment or other services, thereby reducing the burden on law enforcement and on hospital emergency staff.

B. SCOPE OF WORK

Qualified entity shall provide the following:

1. Facility in which detoxification services are provided in a manner which promotes a community-wide, uniform approach to diversion from jail and from emergency department admissions, and any other sources due to the intoxication of adult men and women. A minimum of 700 intakes per year is required.
 - a. Describe your facility. Include number of beds for males and females, daily and annual client capacity, safety, security and therapeutic features of the facility and hours of operation.
 - b. Describe how clients are or can be referred to your program.
 - c. Describe the interactions and agreements you currently have with law enforcement and/or emergency service providers related to this clientele and the length of these relationships.
2. Services which reduce alcohol and drug addiction through an active referral and case management system, treatment and non-traditional healing:
 - a. Specify how long you have been in business, vision or mission or organization, target population and any major programmatic changes which have occurred in the last two years.
 - b. Outline your admission criteria and process for this service. This should include but not be limited to medical clearances, behavioral health pre-screening, disqualifying factors, availability on site and on call, and your ability to transport clients to your facility from referring entities.
 - c. Describe your clinical substance abuse and mental health assessments; what tools are used, credentials of clinicians, protocols for recommending treatment, etc.
 - d. Outline your staffing levels and staffing mix, including schedule level of staffing on site.
 - e. Include a copy of your treatment protocol, include length of stay and all treatment modalities used including drug therapy, therapeutic group sessions,

accu-detox, community meetings, non-traditional healing practices and any other approaches used in your organization. This should include specifics related to treatment programs, number of hours of treatment per average day, whether services will be provided by employees or contracted staff, staff credentials and your ability to accommodate non-English speaking clients and/ or those with cultural differences/practices.

- f. Include a report that shows your recidivism rates for the last three years.
 - g. Outline your existing and planned future funding sources which can be extended to the clients to pay for treatment if they cannot afford it, such as the Health Care Assistance Funds, Medicaid, etc.
 - h. Describe the process for handling medical emergencies for your clients.
 - i. Describe your process for handling clients who become dangerous and criteria for discharging clients. Describe safety measures for clients being discharged or those who leave voluntarily prior to completing detox treatment.
 - j. Include a copy of your client grievance policy.
 - k. Include a copy of your drug administration protocol, procedure, log and oversight/audit process. Include information about your quality assurance process and results.
3. A continuum of care for those people suffering from alcohol and/or drug addiction.
- a. Describe your ability to provide case management services for client participating in your program. Should include but not be limited to which clients will receive the services, how many staff will provide the services, staff qualifications and whether they will be employees or contractors.
 - b. Describe your process for referring clients out to community programs for treatment and recovery support services upon being discharged from your program. Include a report describing the number and percentage of clients referred and the outcomes of the referrals for previous clients.
 - c. Describe your current affiliations/relationships/partnerships with existing community entities and your ability to secure support services for the clients including ongoing medical care, clothing, transportation, etc. Provide a copy of your resource directory if you have one.
 - d. Describe your continuum of care which assists clients follow treatment plans developed.
4. Program evaluation and administrative requirements
- a. Describe how you collect data and how you use it for program evaluation.
 - b. Written quarterly progress reports will be due January 15, 2016 and April 15, 2016. A final report including both quarterly and annual progress is to be submitted no later than July 1, 2016. These reports should contain at a

minimum, aggregate data related to the numbers of clients served, demographics of those clients, substance use profile, recidivism analysis and information detailing linkages to continue resources/services. The DWI Program staff and the contractor will agree on items to be collected and reported. Please specify who will be responsible for providing those reports to the County and include a sample report.

- c. A flat rate for services will be paid to Contractor. Specify any additional costs to be charged to the County and/or client.
- d. Indicate what percentage of your budget this \$300,000 Professional Service Agreement will represent and identify other funding sources.

C. SCOPE OF PROCUREMENT

The County anticipates awarding a contract with a four (4) year term.

D. PROCUREMENT MANAGER

The County has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone number is listed below. All deliveries via express carrier should be addressed as follows:

Rose Moya, Procurement Specialist Senior
Santa Fe County Purchasing Division
142 W. Palace Avenue, Second Floor
Santa Fe, NM 87501
Phone: (505) 992-6753
Fax: (505) 989-3243
rmoya@santafecountynm.gov

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County regarding this procurement.

E. DEFINITION OF TERMINOLOGY

This section contains definitions and abbreviations that are used throughout this procurement document.

“BCC” means the elected Board of County Commissioners for Santa Fe County.

“Close of Business” means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Contract” or “Agreement” means a written agreement for the procurement of items of tangible personal property or services.

“Contractor” means a successful offeror who enters into a binding contract.

“County” means Santa Fe County.

“Determination” means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

“Desirable” The terms “may”, “can”, “should”, “preferably”, or “prefers” identify a desirable or discretionary item or factor (as opposed to “mandatory”).

“Evaluation Committee” means a body appointed by the County management to perform the evaluation of proposals.

“Finalist” is defined as an offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“Mandatory” The terms “must”, “shall”, “will”, “is required”, or “are required”, identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the offeror’s proposal.

“Offeror” is any person, corporation, or partnership who submits a proposal.

“Procurement Manager” means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

“Purchasing Division” means the Santa Fe County Purchasing Division, Administrative Services Department.

“Request for Proposals” or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Responsible Offeror” means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that its financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“Responsive Offer” or “Responsive Proposal” means an offer or proposal that conforms in all material respects to the requirements set forth in the RFP. Material respects of a RFP include, but are not limited to, price, quality, quantity or delivery requirements.

III. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere the following schedule:

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1. Issuance of RFP	Purchasing Division	October 25, 2015
2. Acknowledgement of Receipt Form	Offerors	November 3, 2015
3. Pre-Proposal Conference	Purchasing Division	November 3, 2015
4. Deadline to Submit Additional Questions	Offerors	November 5, 2015
5. Response to Written Questions	Purchasing Division	November 10, 2015
6. Submission of Proposal (2:00PM – Mountain Standard Time)	Offerors	November 17, 2015
7. Proposal Evaluation	Evaluation Committee	November 17, 2015 thru November 23, 2015
8. Oral Presentation (if applicable)	County, Offeror	November
9. Contract Negotiations	County, Offeror	November
10. Contract Award	County	December

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section III, Paragraph A.

1. Issue RFP

This RFP is being issued by the Santa Fe County Community Services/DWI Program and Purchasing Division.

2. Acknowledgement of Receipt Form

Potential offerors should hand deliver or return by facsimile or by registered or certified mail the "Acknowledgement of Receipt of Request For Proposals Form" that accompanies this document (See "Appendix A") to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on November 3, 2015.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

3. Pre-Proposal Conference

A Pre-proposal Conference is scheduled on the date indicated in the Sequence of Events at Section III.A. Questions may be submitted at the pre-proposal conference and after, up until the date indicated in the Sequence of Events at Section III.A. A public log will be kept of the names of potential Offerors who attended.

4. Deadline to Submit Additional Written Questions

Potential offerors may submit additional written questions as to the intent or clarity of this RFP until close of business on November 5, 2015. All written questions must be addressed to the Procurement Manager (See Section II, Paragraph D).

5. Response to Written Questions

Written responses to written questions and any RFP amendments will be distributed on November 10, 2015 to all potential offerors whose organization name appears on the procurement distribution list or who have otherwise advised the County of their desire to receive responses and amendments.

Additional written requests for clarification of distributed answers and/or amendments must be received by the Procurement Manager no later than one (1) day after the answers and/or amendments were issued.

6. Submission of Proposal

ALL PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 PM. - MOUNTAIN STANDARD TIME ON NOVEMBER 17, 2015. Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section II, Paragraph D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to **RFP 2016-0150-DWI/BT Detoxification Services**. Proposals submitted by facsimile will not be accepted.

A public log will be kept of the names of all Offerors that submit proposals. Pursuant to NMSA 1978, Section 13-1-116, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

7. Proposal Evaluation

The evaluation of proposals will be performed by an evaluation committee appointed by County management. This process will take place between November 17, 2015 and November 23, 2015. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Oral Presentations (if applicable)

If applicable, the County may elect to allow the highest qualified Offerors (not more than 3) to an oral presentation based on questions that would be provided by the County after the initial proposal evaluation. The Evaluation Committee will select an Offeror and the Procurement Manager will notify the highest ranked Offeror from the oral presentation scoring of the intent to award on or about November.

If the Oral Presentation is not applicable, then the highest ranked Offeror from the Proposal Evaluation will be notified by the Procurement Manager of the intent to award. Contract negotiations will be conducted between the County and the selected Offeror.

9. Finalize Contract

The contract will be finalized with the most advantageous Offeror on or about November 2015. In the event that mutually agreeable terms cannot be reached within the time specified, the County reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process.

10. Contract Award

The County anticipates awarding the contract in December 2015, after the review and approval of the County Manager. These dates are subject to change at the discretion of the Santa Fe County Procurement Manager.

The contract, if awarded, will be awarded to the Offeror whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

11. Right to Protest

Any protest by an Offeror must be timely and in conformance with NMSA 1978, Section 13-1-172 and applicable procurement regulations. The fifteen (15) day protest period for responsive Offerors shall begin on the day following the contract award. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits. The protest must be delivered to the Santa Fe County Purchasing Division:

Santa Fe County
ASD Purchasing Division
Attn: Bill Taylor, Procurement Manager
P.O. Box 276
Santa Fe, New Mexico 87504-0276

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with Chapter 13, NMSA 1978, NMAC 1.4.1 and Santa Fe County Procurement Regulations.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the contract template attached hereto as Appendix B.

2. Incurring Cost

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will make contract payments only to the prime contractor.

4. Subcontractors

Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. County personnel will not merge, collate, or assemble proposal materials.

6. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or ninety (90) days after receipt of a best and final offer if one is submitted.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978, Sections 57-3A-1 to 57-3A-7. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Procurement Manager shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This procurement does not obligate Santa Fe County or any of its departments to the use of any proposed professional services until a valid written contract is awarded and approved by the appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the County determines such action to be in the best interest of the County.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. General Requirements

The County requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

This procurement and any agreement with Offerors that may result shall be governed by the laws and applicable regulations of the State of New Mexico and County of Santa Fe.

14. Basis for Proposal

Only information supplied by the County in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The contract between the County and the Contractor will follow the format specified by the County and contain the terms and conditions set forth in Appendix B. However, the County reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the contract.

Should an Offeror object to any of the County's terms and conditions, as contained in this Section or in Appendix B, that Offeror must propose specific alternative language. The County may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the offeror's proposal. Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with the County.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the County and the selected Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

The County reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the County, meeting its needs adequately.

21. Notice

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

22. County Rights

The County reserves the right to accept all or a portion of an Offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, potential Offerors and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to this Request for Proposals shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected Offerors shall be returned after the expiration of the protest period.

25. Electronic Mail Address Required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive correspondence.

26. Preferences in Procurement by Santa Fe CountyA. *New Mexico In-State Preference.*

New Mexico law, Section 13-1-21 NMSA 1978, provides a preference in the award of a public works contract for an "in-state resident business". Application of a resident business preference for any Offeror requires the Offeror to provide a copy of a valid and current certificate as a resident business. Certificates are issued by the state taxation and revenue department.

If an Offeror submits with its proposal a copy of a valid and current in-state resident business certificate, 5% of the total weight of all evaluation

factors used in the evaluation of proposals may be awarded or added to the Offerors score.

Certification by the department of taxation and revenue for the resident contractor takes into consideration such activities as the business or contractor's payment of property taxes or rent in the state and payment of unemployment insurance on employees who are residents of the state.

OR

B. *New Mexico Resident Veteran Preference.*

New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for a "**resident veteran business**". Certification by the department of taxation and revenue for the resident veteran business requires the Offeror to provide evidence of annual revenue and other evidence of veteran status.

An Offeror who wants the veteran contractor preference to be applied to its proposal is required to submit with its proposal the certification from the NM Department of Taxation and Revenue and the sworn affidavit attached hereto as Appendix C.

If an Offeror submits with its proposal a copy of a valid and current veteran resident business certificate, 10%, 8% or 7% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded or added to the Offeror's score, depending on the business' annual revenue.

The resident business preference is not cumulative with the resident veteran business preference.

AND

C. *Santa Fe County Preference*

Santa Fe County Ordinance 2012-4 provides for a **County preference** for a "Santa Fe County business." Application of the County preference in procurement requires an Offeror to obtain and provide a Santa Fe County Business Certificate issued by the Santa Fe County Procurement Manager. Certification by the Procurement Manager takes into consideration the business' corporate standing in the state, business licensure or registration, the duration of the business' primary office location and the payment of taxes.

If an Offeror submits with its proposal a copy of its Santa Fe County Business Certificate issued by the Purchasing Manager, 5% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded to the Offerors score.

The in-state, veteran or County preferences do not apply to procurement of services or goods involving federal funds or federal grant funds.

27. Double-Sided Documents

All submitted bids/proposal documents shall be double-sided, pursuant to Santa Fe County Resolution 2013-7, Adopting Sustainable Resource Management Principles, Section 2. A. Waste Reduction and Reuse..."all documents are to be double-sided, including those that are generated by outside entities using County funds and by consultants and contractors doing business with the County".

28. Living Wage

Contractor shall comply with the requirements of Santa Fe County Ordinance No. 2014-1 (Establishing a Living Wage).

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IV. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one response to this RFP.

B. NUMBER OF COPIES

Offeror shall deliver one (1) original and four (4) identical copies of its proposal to the location specified in Section II, Paragraph D on or before the closing date and time for receipt of proposals.

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 1/2 x 11 paper (larger paper is permissible for charts, spreadsheets, etc.), not to exceed fifteen (15) pages, and placed within a binder with tabs delineating each section.

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.

- a) Letter of Transmittal
- b) Table of Contents
- c) Proposal Summary (optional)
- d) Qualifications and Submittal Requirements
- e) Response to Mandatory Specifications
- f) Response to County Terms and Conditions
- g) Offeror's Additional Terms and Conditions
- h) Other Supporting Material

Within each section of its proposal, Offeror should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary may be included by Offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

Offerors may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal **MUST**:

- a) Identify the submitting organization;
- b) Identify the name and title of the person authorized by the organization to contractually obligate the organization;
- c) Identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- d) Identify the names, titles and telephone numbers of persons to be contacted for clarification;
- e) Explicitly indicate acceptance of the Conditions Governing the Procurement as stated in Section III, Paragraph C.1;
- f) Be signed by the person authorized to contractually obligate the organization;
- g) Acknowledge receipt of any and all amendments to this RFP.

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V. SPECIFICATIONS

Minimum Qualifications:

- Must ensure staff and contractors are licensed according to applicable State of New Mexico requirements to provide services.

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

A. INFORMATION

Time Frame

The contract is scheduled to begin in or around December 8, 2015. Santa Fe County intends on awarding a contract with a term of one (1) year with three (3) renewal periods, not to exceed a total of four (4) years.

B. MANDATORY SPECIFICATIONS

A brief explanation of each mandatory specification is listed below. Offerors are encouraged to fully address each category completely, as points are assigned for responses to each.

1. Facility, Capacity and Capability - Provide information about the facility that demonstrates the ability to provide sufficient professional competence, including any consultants, their representatives, qualifications and locations, to perform the work, including any specialized services. Provide description about your facility to include; years in operation, number of beds for males and females, daily and annual client capacity, safety, security and therapeutic features, and hours of operation. Describe the process for referral of clients to your program. Describe interaction you currently have with law enforcement and/or emergency service providers related to this clientele and the length of these relationships. Demonstrate your current staff employment background checks. Provide listing of all staff including resumes of all mainline staff.
2. Experience, Treatment and Success - Provide references along with the following:
 - i. Vision or Mission Statement.
 - ii. Target population and any major programmatic changes which have occurred in the last two years.
 - iii. Outline of admission criteria and process, to include, but not limited to; medical clearances, behavioral health pre-screening, disqualifying factors, and ability to transport clients to facility from referring entities.
 - iv. Description of clinical substance abuse and mental health assessments, to include, but not limited to, tools used, credentials of clinicians, protocols for recommending treatment, etc.
 - v. Outline of staffing levels and staffing mix.

- vi. Treatment protocol, including length of stay and all treatment modalities used; drug therapy, therapeutic group sessions, accudetox, community meetings, non-traditional healing practices and any other modalities used in your organization. Include specifics related to treatment programs, individuals who will provide services (employees or contracted staff), staff credentials and ability to accommodate non-English speaking clients and/or those with cultural differences/practices.
 - vii. Patient recidivism rates for the last three years.
 - viii. Funding sources that can be extended to clients to pay for treatment if needed.
 - ix. Process for handling medical emergencies.
 - x. Process for handling clients who become dangerous and criteria for discharging clients. Safety measures taken for clients discharged and for those who leave voluntary prior to being detoxed.
 - xi. Client grievance policy.
 - xii. Drug administration protocol, procedure, log and oversight/audit process.
3. Continuum of Care - Demonstrate the facility's ability to provide case management services for clients. Include which clients will receive services, number of staff that provide such services, staff qualifications and individuals that will provide services (employees or contracted staff).

Also provide the following:

- i. Process for referring clients to community programs for treatment and recovery support services.
 - ii. Current affiliations/relationships/partnerships with existing community entities and ability to secure support services for clients, to include, ongoing medical care, clothing, transportation, etc. Provide resource directory.
 - iii. Description of continuum of care that assists clients to follow treatment plans developed.
4. Evaluation and Administrative Requirements - Describe how collection of data will occur and how it will be used for program evaluation. Specify staff that will be responsible for providing quarterly and annual reports to Santa Fe County and provide a sample report.

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VI. EVALUATION

A. EVALUATION FACTORS

The County will evaluate responsive proposals and assign a score in each category, not to exceed the maximum allowed score for that category, as determined through the offeror's attention to the criteria detailed in the following sections. The amount of discussion to be applied to each listed topic is an individual choice of the offeror, however, discussion should be detailed enough to inform and educate evaluators.

Proposals will be scored based upon a comparison of the information submitted by each offeror against the evaluation criteria outlined below.

- 1) Facility Capacity and Capability 200 points
- 2) Experience, Treatment and Success 500 points
- 3) Continuum of Care 200 points
- 4) Evaluation and Administrative Requirements 100 points

TOTAL POINTS 1000 points

B. EVALUATION PROCESS

The evaluation process will follow the steps listed below:

- 1. All proposals will be reviewed for compliance with the mandatory specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
- 2. The Procurement Manager may contact the offeror for clarification of the response as specified in Section III, Paragraph B.7.
- 3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section III, Paragraph C.18.
- 4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist offerors based upon the proposals submitted. Finalist offerors

who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The responsible offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section VI, will be recommended for contract award as specified in Section III, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

RFP #2016-0150-DWI/BT
DETOXIFICATION SERVICES
FOR THE COMMUNITY SERVICES DEPARTMENT/DWI PROGRAM

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with "Appendix D."

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on **November 3, 2015**. Potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the County's written responses to those questions as well as RFP amendments, if any are issued.

OFFEROR: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Proposal.

Offeror does/does not (circle one) intend to respond to this Request for Proposals.

Rose Moya, Procurement Specialist, Senior
Santa Fe County Purchasing Division
142 W. Palace Ave (2nd Floor)
Santa Fe, NM 87501
Phone: (505) 992-6753
Fax: (505) 989-3243
rmoya@santafecountynm.gov

APPENDIX B

**SAMPLE PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
[CONTRACTOR'S NAME],**

THIS AGREEMENT is made and entered into this _____ day of _____ 20xx, by and between **SANTA FE COUNTY**, hereinafter referred to as the "County" and **[CONTRACTOR'S NAME]**, whose principal address is **[CONTRACTOR'S ADDRESS]** hereinafter referred to as the "Contractor".

WHEREAS, the **[BACKGROUND OR DESCRIPTION OF THE COUNTY'S NEEDS AND REQUIREMENTS]** ; and

WHEREAS, the **[BACKGROUND/BRIEF DESCRIPTION OF THE CONTRACTOR'S ABILITIES/QUALIFICATIONS]**; and

WHEREAS, **[GENERAL PURPOSE OF THIS AGREEMENT]**; and

WHEREAS, pursuant to **[PROCUREMENT DELIVERY METHOD USED PURSUANT TO PROCUREMENT CODE, COUNTY PURCHASING REGULATIONS/POLICIES]**; and

WHEREAS, the County requires the services of the Contractor and the Contractor is willing to provide these services and both parties wish to enter into this Agreement.

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall provide, without limitation, the following services:

A. Facility in which detoxification services are provided in a manner which promotes a community-wide, uniform approach to diversion from jail and from emergency department admissions, and any other sources due to the intoxication of adult men and women. A minimum of 700 intakes per year is required.

- 1) Describe your facility. Include number of beds for males and females, daily and annual client capacity, safety, security and therapeutic features of the facility and hours of operation.
- 2) Describe how clients are or can be referred to your program.
- 3) Describe the interactions and agreements you currently have with law enforcement and/or emergency service providers related to this clientele and the length of these relationships.

B. Services which reduce alcohol and drug addiction through an active referral and case management system, treatment and non-traditional healing:

- 1) Specify how long you have been in business, vision or mission or organization, target population and any major programmatic changes which have occurred in the last two years.
- 2) Outline your admission criteria and process for this service. This should include but not be limited to medical clearances, behavioral health pre-screening, disqualifying factors, availability on site and on call, and your ability to transport clients to your facility from referring entities.
- 3) Describe your clinical substance abuse and mental health assessments; what tools are used, credentials of clinicians, protocols for recommending treatment, etc.
- 4) Outline your staffing levels and staffing mix, including schedule level of staffing on site.
- 5) Include a copy of your treatment protocol, include length of stay and all treatment modalities used including drug therapy, therapeutic group sessions, accu-detox, community meetings, non-traditional healing practices and any other approaches used in your organization. This should include specifics related to treatment programs, number of hours of treatment per average day, whether services will be provided by employees or contracted staff, staff credentials and your ability to accommodate non-English speaking clients and/ or those with cultural differences/practices.
- 6) Include a report that shows your recidivism rates for the last three years.
- 7) Outline your existing and planned future funding sources which can be extended to the clients to pay for treatment if they cannot afford it, such as the Health Care Assistance Funds, Medicaid, etc.
- 8) Describe the process for handling medical emergencies for your clients.
- 9) Describe your process for handling clients who become dangerous and criteria for discharging clients. Describe safety measures for clients being discharged or those who leave voluntarily prior to completing detox treatment.
- 10) Include a copy of your client grievance policy.
- 11) Include a copy of your drug administration protocol, procedure, log and oversight/audit process. Include information about your quality assurance process and results.

C. A continuum of care for those people suffering from alcohol and/or drug addiction.

- 1) Describe your ability to provide case management services for client participating in your program. Should include but not be limited to which clients will receive the services, how many staff will provide the services, staff qualifications and whether they will be employees or contractors.
- 2) Describe your process for referring clients out to community programs for treatment and recovery support services upon being discharged from your program. Include a report describing the number and percentage of clients referred and the outcomes of the referrals for previous clients.
- 3) Describe your current affiliations/relationships/partnerships with existing community entities and your ability to secure support services for the clients including ongoing medical care, clothing, transportation, etc. Provide a copy of your resource directory if you have one.
- 4) Describe your continuum of care which assists clients follow treatment plans developed.

D. Program evaluation and administrative requirements

- 1) Describe how you collect data and how you use it for program evaluation.
- 2) Written quarterly progress reports will be due January 15, 2016 and April 15, 2016. A final report including both quarterly and annual progress is to be submitted no later than July 1, 2016. These reports should contain at a minimum, aggregate data related to the numbers of clients served, demographics of those clients, substance use profile, recidivism analysis and information detailing linkages to continue resources/services. The DWI Program staff and the contractor will agree on items to be collected and reported. Please specify who will be responsible for providing those reports to the County and include a sample report.
- 3) A flat rate for services will be paid to Contractor. Specify any additional costs to be charged to the County and/or client.
- 4) Indicate what percentage of your budget this \$300,000 Professional Service Agreement will represent and identify other funding sources.

2. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Section 1 (Scope of Work), of this Agreement shall be completed in full, to the satisfaction of the County, in accordance with professional standards and for the amount set forth in Section 3 (Compensation, Invoicing and Set-off), of this Agreement, and for no other cost, amount, fee or expense.

B. The County may from time to time request changes in the scope of work to be performed hereunder. Such changes, including any increase or decrease in the amount of the

Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in a written amendment to this Agreement.

3. COMPENSATION, INVOICING AND SET-OFF

A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

- 1) County shall pay to the Contractor in full payment for services satisfactorily performed.
- 2) The total amount payable to the Contractor under this Agreement shall not exceed [WRITTEN WORD] dollars (\$XX,XXX.XX) *inclusive* of New Mexico gross receipts tax.
- 3) 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. The County will notify the Contractor 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.

B. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the deliverables for which payment is sought.

- 1) The County's representative for certification of acceptance or rejection of contractual items and services shall be [USER AGENCY NAME/INDIVIDUAL], or such other individual as may be designated in the absence of the office representative.
- 2) The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual services or deliverables.
- 3) Within thirty (30) days of the issuance of a written certification accepting the services or deliverables, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

C. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.

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

4. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one (1) year later, with the option to renew the agreement with up to three (3), one (1) year extensions, consecutively. In no event shall this agreement exceed four (4) years in total unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations).

5. TERMINATION

A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

6. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient

appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

7. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

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 advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

9. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

10. PERSONNEL

A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.

B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

11. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

12. CONFIDENTIALITY

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

13. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

A. The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.

B. The Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, the County shall own any such copyright. The Contractor shall retain full ability to use in its website any and all information, photos, and digital media that may be gathered through completion of work pursuant to this Agreement.

14. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

15. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1 (Scope of Work), of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

16. ENTIRE AGREEMENT; INTEGRATION

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

17. NOTICE OF PENALTIES

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

18. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.

B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.

B. Contractor shall comply with the requirements of Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).

C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district courts of New Mexico, located in Santa Fe County.

20. RECORDS AND INSPECTIONS

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).

B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

21. INDEMNIFICATION

A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.

C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

22. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

23. NOTICES

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

To the County: Santa Fe County
 Office of the County Attorney
 102 Grant Avenue
 Santa Fe, New Mexico 87501

To the Contractor: **[CONTRACTOR'S NAME AND ADDRESS]**

24. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.

B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the New Mexico Secretary of State on Contractor's behalf.

C. Contractor is legally registered and is properly licensed by the State of New Mexico to provide the services anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

25. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

26. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

27. INSURANCE

A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.

B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. Santa Fe County shall be a named additional insured on the policy.

C. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

28. PERMITS, FEES, AND LICENSES

Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

29. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

30. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County (Appendix D).

31. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS,

The Contractor hereby irrevocably appoints [NAME AND ADDRESS OF AGENT], as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the state of New Mexico.

32. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY:

Robert A. Anaya, Chair
Santa Fe County Board of Commissioners

Date

ATTESTATION:

Geraldine Salazar
Santa Fe County Clerk

Date

Katherine Miller
Santa Fe County Manager

Date

APPROVED AS TO FORM

Gregory S. Shaffer
Santa Fe County Attorney

Date

FINANCE DEPARTMENT

Carole H. Jaramillo
Santa Fe County Finance Director

Date

CONTRACTOR:

(Signature)

Date

(Print Name)

(Print Title)

APPENIDIX C

Resident Veterans Preference Certification

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement.

Please check one box only:

- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report or reports to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, which awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be."

"I understand that knowingly giving false or misleading information on this report constitutes a crime".

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

(Signature of Business Representative)*

(Date)

*Must be an authorized signatory of the Business.

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or un-award of the procurement involved if the

statements are proven to be incorrect.

SIGNED AND SEALED THIS _____ DAY OF _____, 2012.

NOTARY PUBLIC

My Commission Expires:

APPENDIX D

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for **professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

"Pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"Person" means any corporation, partnership, individual, joint venture, association or any other private legal entity.

"Prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

"Representative of a prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature Date
