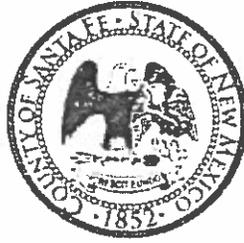


Henry P. Roybal
Commissioner, District 1

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: *October 13, 2015*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Purchasing Manager* *BT*

VIA: *Katherine Miller, County Manager*
Pablo Sedillo, Director of Public Safety

ITEM AND ISSUE: *BCC Meeting October 27, 2015*

REQUEST APPROVAL OF AMENDMENT NO. 3 TO AGREEMENT NO. 2013-0115-CORR/PL WITH BI INCORPORATED. FOR AN INCREASED CONTRACT AMOUNT OF \$630,000.00 AND EXTEND THE CONTRACT TERM ONE (1) ADDITIONAL YEAR FOR ELECTRONIC MONITORING SERVICES AND GRANT SIGNATURE AUTHORITY TO THE COUNTY MANAGER TO SIGN THE PURCHASE ORDER. (*Bill Taylor, Purchasing Division*)

SUMMARY:

The Purchasing Division requests approval of Amendment No. 3 to Agreement No. 2013-0115-CORR/PL with BI Incorporated. to provide electronic monitoring services for an additional one (1) year term at a cost of six hundred thirty thousand dollars (\$630,000).

Amendment No. 3 will begin the fourth year term and increase the total contact amount to \$1,810,000 which requires the Board of County Commissioner's approval.

BACKGROUND:

Santa Fe County Corrections Department offers electronic monitoring services for those Santa Fe County residents who are court-ordered to be monitored electronically while on probation, prior to being adjudicate, or while nearing the end of a minor drug, alcohol, or misdemeanor sentence. Participants may also include juveniles and first-time misdemeanor offenders. The program offers

an alternative to incarceration and assists in alleviating over-population at the jail. There is also substantial savings and decreased liability when compared to housing offenders in a jail setting.

The Purchasing Division issued Request for Proposals (RFP) No. 2013-0115-CORR/PL "Electronic Monitoring Services" September 16, 2012. The original contract was signed by all parties on November 27, 2012. Amendment No. 1 was signed on October 29, 2013 which extended the term of the agreement an additional year and increased compensation by three hundred sixty thousand dollars (\$360,000.00). Amendment No. 2 was signed on October 28, 2014 which extended the term of the agreement an additional year and increased compensation by four hundred thousand dollars (\$400,000.00). Amendment No. 3 extends the term of the agreement for one (1) additional year and will increase the total contract amount an additional six hundred thirty thousand dollars (\$630,000.00) making the total contract amount one million eight hundred ten thousand dollars (\$1,810,000.00).

ACTION REQUESTED:

The Purchasing Division requests approval of Amendment No. 3 to Agreement No. 2013-0115-CORR/PL with BI Incorporated. to extend the term of the agreement for one (1) year and increase the contract compensation six hundred thirty thousand dollars (\$630,000.00). The Purchasing Division also requests signature authority for the County Manager to execute the purchase order.

**SANTA FE COUNTY
AMENDMENT NO. 3 TO THE AGREEMENT
WITH BI, INCORPORATED
TO PROVIDE ELECTRONIC MONITORING SERVICES**

THIS AMENDMENT is made and entered into this _____ day of _____ 2015 by and between Santa Fe County, hereinafter referred to as "County", a New Mexico political subdivision, and **BI, Incorporated**, hereafter referred to as the "Contractor."

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, the County issued Request for Proposal No. 2013-0115-CORR/PL for electronic monitoring services for the Santa Fe County Corrections Department; and

WHEREAS, on November 28, 2012 the County and Contractor entered into Agreement No. 2013-0115-CORR/PL (the Agreement) to provide for the Contractor's provision of electronic monitoring equipment and services for the contract sum of \$420,000.00; and

WHEREAS, according to Article 15 (No Oral Modifications; Written Amendments Required) of the Agreement the parties may amend the Agreement by an instrument in writing executed by the parties; and

WHEREAS, Amendment No. 1 extended the term of the Agreement to November 28, 2014, increased the Contractor's compensation by \$360,000 and added SOBERLINK services to the Contractor's services; and

WHEREAS, Amendment No. 2 extended the term of the Agreement to November 28, 2015 and increased the Contractor's compensation by \$400,000 for a not-to-exceed contract sum of \$1,180,000; and

WHEREAS, the County wishes to extend the term of the Agreement to November 28, 2016 and increase the Contractor's compensation by \$630,000 for a total contract sum of \$1,810,000; and

WHEREAS, both parties desire to enter into this Amendment No. 3.

NOW THEREFORE, both parties agree as follows.

1. Article 2. "COMPENSATION AND INVOICING" of the Agreement, a new subparagraph "A.2.c" is inserted to read as follow:
 - c. By Amendment No. 3, the County exercised its option to extend this Agreement from November 28, 2015 to November 28, 2016. The total amount payable to the Contractor for the term of November 28, 2015 to November 28, 2016 shall not exceed six hundred thirty thousand dollars (\$630,000.00) exclusive of NM gross receipts tax. The total amount payable to the Contractor under this Agreement, as

amended, shall not exceed one million eight hundred ten thousand dollars and no cents (\$1,810,000.00), exclusive of NM gross receipts tax.

- 2. Article 3. "EFFECTIVE DATE AND TERM" of the Agreement, a new subparagraph "3.c" is inserted to read as follows:
 - c. By Amendment No. 3, the County notified Contractor and exercised the County's option to extend the term of this Agreement for one (1) year from November 28, 2015 to November 28, 2016.
- 3. All other provisions of Agreement No. 2013-0115-CORR/PL not specifically amended or modified by Amendments 1, 2 and this Amendment No. 3 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have duly executed this Amendment to the 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

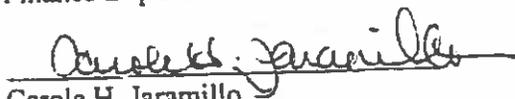
 Date

Approved as to form


 Gregory S. Shaffer
 Santa Fe County Attorney

9/17/15
 Date

Finance Department


 Carole H. Jaramillo
 Finance Department Director

10/6/15
 Date

CONTRACTOR:

(Signature)

Date

(Print Name)

(Print Title)

**SANTA FE COUNTY
AMENDMENT NO. 2 TO THE AGREEMENT
WITH BI, INCORPORATED
TO PROVIDE ELECTRONIC MONITORING SERVICES**

THIS AMENDMENT is made and entered into this 28th day of October 2014 by and between Santa Fe County, hereinafter referred to as "County", a New Mexico political subdivision, and **BI, Incorporated**, hereinafter referred to as "the Contractor."

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, the County issued Request for Proposal (RFP) No. 2013-0115-CORR PL for electronic monitoring services for the Corrections Department; and

WHEREAS, on November 28, 2012 the County and Contractor entered into Agreement No. 2013-0115-CORR PL to provide for the Contractor to provide electronic monitoring equipment and services in the amount of \$420,000.00; and

WHEREAS, Amendment No. 1 extended the term of the Agreement for one (1) year to November 28, 2014, included new Alcohol Technologies equipment known as "SOBERLINK" to Exhibit A and increased compensation by \$360,000.00 for a not to exceed amount of \$780,000.00; and

WHEREAS, Article 15, "NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED." of Agreement No. 2013-0115-CORR PL allows the parties to amend the Agreement by an instrument in writing executed by the parties hereto; and

WHEREAS, the County wishes to extend the term of the Agreement to November 28, 2015 and increase compensation by \$400,000.00 for a total contract sum of \$1,180,000.00; and

WHEREAS, both parties desire to enter into this Amendment No. 2; and

NOW THEREFORE, both parties agree as follows.

- I. **ARTICLE 2, "COMPENSATION AND INVOICING"** a new subparagraph "A.2.b" is inserted to read as follow:
 - n. By Amendment No. 2, the County exercised its option to extend this Agreement from November 28, 2014 to November 28, 2015. The total amount payable to the Contractor for the term of November 28, 2014 to November 28, 2015 shall not exceed four hundred thousand dollars (\$400,000.00) exclusive of gross receipts tax. The total amount payable to the Contractor under this Agreement, as amended, shall not exceed one million one hundred eighty thousand dollars and no cents (\$1,180,000.00) exclusive of NM gross receipts tax.

2. ARTICLE 3. "EFFECTIVE DATE AND TERM" a new subparagraph "3.b" is inserted to read as follows:
 - b. By Amendment No. 2, the County notified Contractor and exercised the County's option to extend the term of this Agreement for one (1) year from November 28, 2014 to November 28, 2015.
3. All other provisions of Agreement No. 2013-0115-CORR PL not specifically amended or modified by this Amendment No. 2 shall remain in full force and effect.

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

SANTA FE COUNTY:

[Signature]
 Daniel W. Mayfield, Chair
 Board of County Commissioners

10-28-14
 Date

ATTEST

[Signature]
 Geraldine Salazar
 Santa Fe County Clerk

10-28-2014
 Date

for *[Signature]*
 Katherine Miller
 Santa Fe County Manager

10-17-14
 Date



Approved as to Form

[Signature]
 Gregory S. Shaffer
 Santa Fe County Attorney

10-16-14
 Date

Finance Department Approval

[Signature]
 Teresa C. Martinez
 Finance Department Director

 Date

CONTRACTOR:

[Handwritten Signature]
(Signature)

7/1/14
Date

[Handwritten Name]
(Print Name)

[Handwritten Title]
(Print Title)

FEDERAL TAX I.D. NUMBER: 54-571-XXXX

**SANTA FE COUNTY
AMENDMENT NO. 1 TO THE AGREEMENT
WITH BI, INCORPORATED
TO PROVIDE ELECTRONIC MONITORING SERVICES**

THIS AMENDMENT is made and entered into this 29th day of October 2013 by and between **Santa Fe County**, hereinafter referred to as "County", a New Mexico political subdivision, and **BI, Incorporated**, hereafter referred to as "the Contractor."

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, the County issued Request for Proposal (RFP) No. 2013-0115-CORR PL for electronic monitoring services for the Corrections Department;

WHEREAS, on November 28, 2012 the County and Contractor entered into Agreement No. 2013-0115-CORR PL to provide for the Contractor to provide electronic monitoring equipment and services for a contract sum of \$420,000.00;

WHEREAS, Article 4 "ADDITIONAL SERVICES" of the Agreement allows the parties to make changes in the Contractor's scope of services including increases in the compensation; Article 15 "NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED," of the Agreement allows the parties to amend the Agreement by an instrument in writing executed by the parties;

WHEREAS, the County wishes to extend the term of the Agreement to November 28, 2014, increase the compensation by \$360,000.00 for a total contract sum of \$780,000.00, and include new Alcohol Technologies equipment known as "SOBERLINK" to Exhibit A of the Agreement;

WHEREAS, both parties desire to enter into this Amendment No. 1.

NOW THEREFORE, both parties agree to Amend the Agreement as follows:

1. ARTICLE 2 "COMPENSATION, INVOICING AND SET-OFF" replace "Exhibit A" referenced in 2.A.1 of the Agreement with the "Exhibit A" attached hereto which includes the Alcohol Technologies equipment "SOBERLINK"
2. ARTICLE 2 "COMPENSATION, INVOICING AND SET-OFF" insert a new subparagraph "A.2.a" to read as follows:
 - a. By Amendment No. 1, the County exercised its first option to extend this Agreement from November 28, 2013 to November 28, 2014. The total amount payable to the Contractor for the term of November 28, 2013 to November 28, 2014 shall not exceed three hundred sixty thousand dollars (\$360,000.00) exclusive of NM gross receipts tax. The amount payable to the Contractor

under this Agreement, as amended and extended, shall not exceed seven hundred eighty thousand dollars (\$780,000.00), exclusive of NM gross receipts tax.

3. ARTICLE 3 "EFFECTIVE DATE AND TERM" insert a new subparagraph "3.a" to read as follows:

a. By Amendment No. 1, the County notified Contractor and exercised the County's first option to extend the term of this Agreement for one (1) year from November 28, 2013, to November 28, 2014.

4. All other provisions of Agreement No. 2013-0115-CORR PL not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.

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

SANTA FE COUNTY:

Kathleen S. Holian
Kathleen S. Holian, Chair
Santa Fe County Board of County Commissioners

10/29/13
Date

ATTEST

Geraldine Salazar
Geraldine Salazar
Santa Fe County Clerk

10/29/2013
Date

Approved as to Form

Stephen C. Ross
Stephen C. Ross
Santa Fe County Clerk

11/5
Date

Finance Department

Teresa C. Martinez
Teresa C. Martinez
Finance Department Director

Date

CONTRACTOR:



(Signature)

Date

(Print Name)

(Print Title)

FEDERAL TAX I.D. NUMBER: _____

Monitoring: \$0.55 monitoring service charge per day.
Total ET1 3.270.A0 NZ: \$4.50 per unit per day.

ETOne 1.60.A0 ZX:
Rental: \$3.95 unit rental charge per day.
Monitoring: \$1.50 monitoring service charge per day.
Total ET1 1.60.A0 ZX: \$5.45 per unit per day.

ALCOHOL TECHNOLOGIES:

BI TAD – Alcohol only:
Rental: \$5.61 unit rental charge per day.
Monitoring: \$1.88 monitoring service charge per day.
Total TAD: \$7.49 per unit per day.

BI TAD cellular – Alcohol only:
Rental: \$5.61 unit rental charge per day.
Monitoring: \$1.88 monitoring service charge per day.
Cellular: \$1.75
Total TAD with cellular: \$9.24 per unit per day.

BI TAD cellular with alcohol and curfew monitoring:
Rental: \$5.61 unit rental charge per day.
Monitoring: \$2.64 monitoring service charge per day.
Cellular: \$1.75
Total TAD w/RF: \$10.00 per unit per day.

SOBERLINK:
Rental: \$4.00 unit rental charge per day.
Monitoring: \$3.00 monitoring service charge per day.
Total Soberlink: \$7.00 per unit per day.

LOST OR DAMAGED: For all equipment above 100% replacement insurance costs due to loss or damage.

SPARES: 20% spare equipment allowance for each equipment type. This no-charge spare allowance is based on the total number of active days per month for each equipment type. Any inactive units in excess of the specified spare allowance will incur a spare unit charge per inactive day, per unit.

SHIPPING: BI pays shipping costs from BI to agency sites and back. Replacement equipment will be shipped back to the County within 5 days of request or by promised delivery date. Equipment can be shipped within 24 hours in emergencies. Equipment will be shipped via ground transportation, with expedited shipping in emergencies.

**PROFESSIONAL SERVICES AGREEMENT
WITH BI, INCORPORATED
TO PROVIDE ELECTRONIC MONITORING SERVICES**

THIS AGREEMENT is made and entered into on this 28th day of November, 2012, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), an New Mexico political subdivision, and **BI INCORPORATED**, a _____ corporation with a principal address located at 6400 Lookout Road, Boulder, Colorado 80301. (hereinafter referred to as the "Contractor").

WHEREAS, the Santa Fe County Corrections Department requires electronic monitoring services for offenders, who may include juveniles and first-time misdemeanor offenders, who are court-ordered to be monitored electronically while on probation, prior to being adjudicated, or while nearing the end of a minor drug, alcohol, or misdemeanor sentence;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-117, competitive, sealed proposals were solicited via a formal request for proposals, RFP No. 2013-0115-CORR PI for the provision of electronic monitoring services;

WHEREAS, based upon the evaluation criteria of the RFP, the County has determined the Contractor as the most responsive and highly rated offeror;

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, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. SCOPE OF WORK

A. The Contractor shall:

- a) Provide an electronic monitoring system which will monitor, check and verify a person's presence or absence at a particular location during specified time periods.
- b) Report unauthorized absences, late returns, equipment malfunctions and tampering to a central computer system that will alert the Corrections Department of such occurrences.
- c) Provide a breath alcohol and or transdermal alcohol monitoring system which detects the presence of alcohol consumed by offenders.
- d) Report the presence of alcohol, equipment malfunctions and tampering to a central computer system that will alert the Corrections Department of such occurrences.

- d) Report the presence of alcohol, equipment malfunctions and tampering to a central computer system that will alert the Corrections Department of such occurrences.
- e) Supply a system with continuous signaling, RF and GPS based transmitter and receiver monitoring, random calling monitoring capability, text messaging, beeper, fax, email, and or telephone notification capability.
- f) Provide a system that utilizes RF land line and or GPS equipment to communicate between individual transmitters receivers and the central computer. All monitoring equipment and accessories will be specifically designed for electronic monitoring house arrest and alcohol monitoring and will not be an adaptation of readily and commercially available products.
- g) Supply monitoring equipment that can be easily attached to each offender, and easily installed on a land or cellular line
- h) Provide a central computer system located at a secure facility, capable of receiving, storing and disseminating the data generated by the monitoring equipment. It will also provide a reliable and secure means of transmitting data between the central computer and the offender's monitoring equipment.
- i) Provide staffing at its monitoring center to continuously monitor the computer system twenty-four (24) hours a day, seven (7) days a week, three hundred sixty-five (365) days a year in order to promptly detect unauthorized absences, late arrivals, alcohol violations, equipment malfunctions and tampering, and to respond promptly to inquiries from the Corrections Department.
- j) Provide all necessary on-site training and manuals for equipment and systems operations, as well as on-going support to Corrections Department employees and follow-up training and support as requested.
- k) Maintain equipment and inventory in proper working condition.
- l) Inform the County of new technologies and equipment as it becomes available in the market.

B. CONTRACTOR'S EQUIPMENT

Contractor's equipment must meet the following minimum specifications.

- a) Central computer system-The central computer system shall be capable of automatically initiating and receiving alerts to from the offender's location to communicate with the offender and the monitoring equipment

- i. The computer system will be located at a secure office location.
 - ii. The computer system will have an uninterruptible back up power-supply, which will enable the computer to continue running in the event of a power outage. (Indicate memory loss that occurs).
 - iii. The system will provide for an orderly back up of data on (at least) on a daily basis to prevent data loss due to system failure.
 - iv. The computer system will be capable of continuously initiating, receiving and storing all alerts, breath analysis results and voice responses of the offender and data sent by the receiver dialer, together with the date and time of each occurrence. All voice responses will be permanently recorded on tape for later playback and analysis for substance abuse, unusual responses and additional identification. All data shall be continuously stored electronically, printed out on line in real time and later shall be printable in various report formats as required.
 - v. The computer system will have the ability to perform random calling within at least six (6) different curfew periods per day on a customized schedule for each offender. In the event an offender's unauthorized absence is reported by the RF and/or GPS portion of the system, the computer system must have an automatic call back feature and provide immediate 100% accurate verification that the offender is or is not present.
 - vi. The computer system will be capable of retaining relevant information for each offender, including name, address, phone number, equipment serial numbers, case name, and other pertinent information.
 - vii. The computer system will have an alert system so that the Contractor's monitoring center will notify the Corrections Department by text messaging, telephone, beeper, email, fax of any unauthorized absences, late arrivals, equipment malfunctions or tampering upon its occurrence indicating the offender's name or unit number and violation type as agreed to and arranged by the Corrections Department.
- b) Transmitter worn by an offender must:
- i. Be small, lightweight and easily installed on the offender's ankle or wrist with minimal training and experience of the installer.
 - ii. Comply with all applicable Federal Communications Commission (FCC) rules and regulations and be registered with the FCC.
 - iii. Send an individually coded signal that has a range of approximately 150 feet.
 - iv. Be shock resistant, water and moisture proof, and function reliable under normal atmospheric and environmental conditions.
 - v. Not pose a safety hazard or unduly restrict the activities of the offender.
 - vi. The transmitter and band must be hypoallergenic.

- vii. Be field programmable.
- viii. Have a totally passive offender's identifier unit which will be used to automatically, immediately and accurately confirm its presence when a telephone call to the location is initiated by the central computer system.
- ix. Be battery powered and have a one (1) year minimum continuous operating life without need for battery recharging or replacement.
- x. The transmitter operating RF and or GPS shall not interfere with or be interfered with by use of radio transmitters normally used by police corrections officials, electronic security systems, or other radio devices.
- xi. The transmitter coded radio signal will not be the same as any commercially available product and will be designed to discourage tracing and duplication of the signal by an offender or an accomplice.
- xii. The batteries powering the transmitter will be easily replaced in the field and will not require replacement of either the transmitter or the receiver monitor in the home.
- xiii. The strap and any required fasteners must not be available to the general public either commercially or through any mail order outlet.
- xiv. Capable of being securely attached to the offender in such a manner in which efforts to tamper with or remove the device are detectable, and the strap and circuitry within the transmitter must enable the transmitter to immediately notify the central computer (when in range of the receiver) of any tamper attempt or removal from the offender, including severing the strap or removal of the transmitter without severing the strap.
- xv. Tamper Resistant Features
 - The transmitter must transmit a specific "Tamper" signal immediately when it has been tampered with.
 - If tampered with out of range of the receiver, the tamper signal will still be present and recorded by the receiver when the transmitter returns within range of the receiver. If GPS, the unit should call out tamper within five (5) minutes.
 - The tamper signal will continue to be transmitted to the central computer until reset by authorized agency personnel.

c) Receiver Dialer Monitor must:

- i. Comply with all applicable FCC rules including, but not limited to, 47 CFR Parts 15 and 68 and will be registered with the FCC. The Contractor will provide the FCC registration number.
- ii. Be capable of being easily attached to the offender's telephone and telephone outlet using standard RJ11-C modular telephone connector.

- jack or plug.
- iii. Accept and activate reporting activities only from the unique signal of the corresponding transmitter attached to that one offender.
 - iv. Detect attempts to simulate or duplicate the offender's transmitter signal and immediately report this to the central computer system.
 - v. Will be powered by 100 volt AC line current, with an internal battery back-up capable of providing a minimum of 48 hours of continuous operating power in the event of a 110 AC power loss.
 - vi. Contain an internal clock and a memory to store and time stamp data in the event that telephone communication with the central computer is disrupted.
 - vii. Will be capable of seizing a telephone line when not in use, and deliver courtesy "alert beeping tones" on a line in use in order to initiate communications with the central computer system.
 - viii. Be capable of receiving the radio signal from the offender's transmitter within the specified range of approximately 150 feet without undue obstruction from metallic objects or interference from household electronic equipment.
 - ix. Not pose any health or safety hazard to the offender or others and shall function reliably under normal environmental and atmospheric conditions.
 - x. Surge protectors will be built-in or provided for incoming power and telephone lines which are designed in accordance with the receiver dialer's manufacturer's recommendations to be fully compatible with the proposed receiver dialer equipment.
 - xi. Be capable of being easily installed within 20 minutes or less on average and made operational by Corrections Officers following the training and instructions provided by the Contractor.
 - xii. Detect the following events and immediately communicate them to the central computer with the time of occurrence:
 - arrival of transmitter within range of the receiver dialer.
 - departure of transmitter out of range of the receiver dialer (subject to a present time interval).
 - cutting or removal of the transmitter attachment strap from the offender.
 - loss or restoration of 110 AC power.
 - tampering with receiver dialer including attempts to gain unauthorized access to the internal mechanism
 - disconnection and restoration of telephone service (disconnection must be communicated as soon as service is restore and any other alerts that occur during disconnection), and
 - attempts to simulate or duplicate the radio signal by a device other than offender's own transmitter.
 - xiii. Automatically communicate with the central computer at preset intervals with a maximum of six (6) hours or less, if no offender

activity is detected. This will present status reports and indicate that it is connected and functioning properly.

d) Contractor's Maintenance, Repair and Service:

- i. Contractor will maintain all equipment and spares in good operating condition and will provide prompt repair, replacement and service.
- ii. Contractor will provide remote service and diagnostics from its service facility on the Corrections Department monitoring system as required while the system is in full monitoring operation.
- iii. Contractor will provide a free telephone hot line support service center. Each service support location must have the ability to electronically access the system for the purposes of performing remote diagnostics.
- iv. Contractor must be able to ship equipment within five days of request or within five days of promised delivery date. Contractor must be able to ship equipment overnight in emergency cases.
- v. The equipment must be under warranty and maintenance agreement with the manufacturer. The County must receive all revisions to equipment, as they become available, at no additional cost.
- vi. At no additional cost, Contractor shall supply a 20% spare level of equipment to be maintained at the County's office for use as immediate replacements when needed.
- vii. Contractor must supply a reasonable amount of consumables, such as straps and batteries at no additional charge, while equipment is under a lease or maintenance contract.

C. CUSTOMER SUPPORT

Contractor shall supply an account manager who is trained, certified, and periodically re-certified by the Original Equipment Manufacturer (OEM) of the equipment provided for this program. The account manager will provide, at a minimum, the following services:

- i. Assistance with inventory management, including ordering, returning, and repairing upgrading equipment. On-site initial training and refresher training at local offices as requested by the County
- ii. Trouble shooting assistance, including on-site installation assistance as requested by the County, and emergency on-site assistance
- iii. Liaison between the County and the monitoring center or internal account representative, engineering, corporate headquarters.

D. CUSTOMER TRAINING

Contractor must provide to County personnel, at no additional cost, all training necessary to implement and manage the program successfully. Training must include hands-on training and reference materials.

Contractor must provide initial field equipment training at County site, at no charge, along with follow up trainings as requested by Corrections staff. Regular software application trainings must be available via the Internet, and on-site if requested.

E. INSURANCE REQUIREMENTS ON EQUIPMENT

The Contractor's equipment costs to County will include pricing for 100% insurance coverage for loss or missing equipment or the cost of repairs necessitated by County's negligence or the damage or destruction of the equipment by parties other than Contractor.

F. TELEPHONE SERVICE

Offenders in the program will be responsible for maintaining telephone service at their monitored location.

G. CONTRACTOR'S SECURITY PROCEDURES

Security procedures must ensure system integrity. Contractor must provide the following information to the County upon contract award:

- i. Staff selection, background investigation and training procedures
- ii. Procedures for the prevention of unauthorized access to computer terminal and restriction on access to or modification of data, and
- iii. Safeguards for preventing unauthorized access by lines or modems.

2. 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 Contractor in accordance with Exhibit A fee schedule attached hereto for services performed.
- 2) The total amount payable to the Contractor under this Agreement, exclusive of gross receipts tax shall not exceed four hundred twenty thousand dollars (\$420,000) per year, exclusive of NM GRT. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
- 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 contractual items or services for which payment is sought. 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 items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, 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.

3. 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, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The County has the option to extend the contract at the same price, terms and conditions for a period of three (3) additional years, on a year-to-year basis, upon the approval of the Santa Fe County. The County may exercise this option by submitting a written notice to Contractor that the Agreement will be extended an additional year. The notice must be submitted to Contractor at least sixty (60) days prior to expiration of the Agreement or any extension thereof.

4. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full to the satisfaction of the County, for the amount set forth in Section 2 (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 written amendments to this Agreement.

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. 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, 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 Legal Department
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Contractor: Bl. Incorporated
Attn: Michael Pharris
6400 Lookout Road
Boulder, CO 80301

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 Public Regulation Commission on Contractor's behalf.

C. Contractor is legally registered and licensed to operate as a business in New Mexico and is properly licensed to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

D. It will maintain throughout the life of this Agreement, its registration, licensure to conduct business in the State of New Mexico, and its status of "good standing" with the New Mexico Public Regulation Commission.

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 \$1,050,000.00 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 County of Santa Fe shall be a named additional insured on the policy.

C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

D. 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.

31. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS, if applicable

The Contractor hereby irrevocably appoints, Corporate Creations Network, Inc., a New Mexico resident company located at 400 North Pennsylvania Ave. 600, Roswell, N.M. 88201, 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 Amendment to the Agreement as of the date first written above

SANTA FE COUNTY:

Liz Stefalics
Liz Stefalics, Chairperson
Santa Fe Board of County Commissioners

1/27/12
Date

ATTEST:
Valerie Espinoza
Valerie Espinoza
Santa Fe County Clerk

1/28/12
Date

Approved as to Form:

Stephen C. Ross
Santa Fe County Attorney

Date

Finance Department Approval:

Teresa Martinez
Santa Fe County Finance Director

Date



CONTRACTOR:

[Handwritten Signature] _____
(Signature) Date

By: [Handwritten Name]
(Print Name)

Is: [Handwritten Title]
(Print Title)

FEDERAL TAX I.D. NUMBER

[Handwritten Federal Tax I.D. Number]

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: *October 14, 2015*

TO: *Board of County Commissioners*

FROM: *Bill Taylor, Purchasing Manager*

VIA: *Katherine Miller, County Manager*
Jeff Trujillo, Director of Legal and Administration

ITEM AND ISSUE: *BCC Meeting October 27, 2015*

REQUEST APPROVAL OF AMENDMENT NO. 3 TO AGREEMENT NO. 2014-0002-LG/MS WITH DANIELS INSURANCE, INC. FOR AN INCREASED CONTRACT AMOUNT OF \$60,000.00 AND EXTEND THE CONTRACT TERM ONE (1) ADDITIONAL YEAR FOR INSURANCE BROKER AND CONSULTING SERVICES AND GRANT SIGNATURE AUTHORITY TO THE COUNTY MANAGER TO SIGN THE PURCHASE ORDER. (Bill Taylor, Purchasing Division)

SUMMARY:

The Purchasing Division requests approval of Amendment No. 3 to Agreement No. 2014-0002-LG/MS with Daniels Insurance, Inc. to provide insurance broker and consulting services for an additional one (1) year term at a cost of sixty thousand dollars (\$60,000).

Amendment No. 3 will begin the third year term and increases the total contact amount to \$250,000, which requires the Board of County Commissioner's approval.

BACKGROUND:

Santa Fe County requires insurance broker and consulting services. The Purchasing Division issued Request for Proposals (RFP) No. 2014-0002-LG/MS "Insurance Broker and Consulting Services" June 30, 2013. The original contract was signed by all parties on October 1, 2013. Amendment No. 1 was signed on October 1, 2014 which extended the term of the agreement an additional year and increased compensation by sixty thousand dollars (\$60,000.00). Amendment No. 2 extended the

agreement for one (1) month without any increase to the compensation of the agreement to discuss contract terms. Amendment No. 3 will extend the term of the agreement for one (1) additional year from November 2015 to October 2016 and will increase the total contract amount an additional sixty thousand dollars (\$60,000.00) making the total contract amount two hundred fifty thousand dollars (\$250,000.00).

ACTION REQUESTED:

The Purchasing Division requests approval of Amendment No. 3 to Agreement No. 2014-0002-LG/MS with Daniels Insurance, Inc. to extend the term of the agreement for one (1) year and increase the contract compensation sixty thousand dollars (\$60,000.00). The Purchasing Division also requests signature authority for the County Manager to execute the purchase order.

**SANTA FE COUNTY
AMENDMENT NO. 3
TO THE AGREEMENT WITH DANIELS INSURANCE, INC FOR
INSURANCE BROKER AND CONSULTING SERVICES**

This Amendment is made and entered into as of this ___ day of _____, 2015 by and between **Santa Fe County**, hereinafter referred to as “the County”, a New Mexico political subdivision, and **Daniels Insurance, Inc.** hereafter referred to as “the Contractor”.

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, and 13-1-117 NMSA 1978, competitive sealed proposals were solicited via a formal request for proposals Request for Proposal (RFP) No. 2014-0002-LG/MS for the provision of the professional services; and

WHEREAS, the County and Contractor entered into Agreement No. 2014-0002-LG/MS on October 1, 2013 to provide Insurance Broker Services; and

WHEREAS, Agreement 2014-0002-LG/MS has a term of one (1) year with an option to extend the term three (3) additional years in one (1) year increments.

WHEREAS, Amendment No. 1 extended the term of the original Agreement from October 1, 2014 to October 1, 2015 and amended the Contractor’s Scope of Work to include specific additional deliverables and increased the compensation payable to the Contractor by \$95,000; and Amendment No. 2 extended the term of the Agreement for one (1) month from October 1, 2015 to October 30, 2015 to discuss terms; and

WHEREAS, both parties wish to extend the term of the Agreement from November 1, 2015 to October 1, 2016 and increase the compensation payable to the Contractor by an amount not to exceed \$60,000;

WHEREAS, Article 15, “NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED,” of Agreement No. 2014-0002-LG/MS allows parties to amend the Agreement by an instrument in writing executed by both parties; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto mutually agree as follows.

1. Article 2. “COMPENSATION, INVOICING, AND SET-OFF” a new sub-subparagraph “A.1.c.” is inserted to read as follows:

c) By Amendment No. 3, the County exercised its second option to extend this Agreement from November 1, 2015 to October 1, 2016. The total amount payable to the Contractor for the period of November 1, 2015 to October 1, 2016, inclusive of NM gross receipts tax, shall not exceed Sixty Thousand Dollars (\$60,000). The total amount payable to the Contractor under this Agreement, as amended and extended, shall not exceed Two Hundred Fifty Thousand Dollars, (\$250,000) inclusive of NM gross receipts tax.

3. Article 3 "EFFECTIVE DATE AND TERM" a new subparagraph C is inserted to read as follows:

C. By Amendment No. 3, the County notifies Contractor and exercised the County's second option to extend the term of Agreement No. 2014-0002-LG/MS for an additional eleven (11) month term from November 1, 2015 to October 1, 2016 on the same terms and conditions as stated herein.

4. All other provisions of Agreement No. 2014-0002-LG/MS not specifically amended or modified by this Amendment No. 3, shall remain in full force and effect.

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

SANTA FE COUNTY:

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

Date

SANTA FE COUNTY CLERK

Geraldine Salazar
Santa Fe County Clerk

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)

**SANTA FE COUNTY
AMENDMENT NO. 2
TO THE AGREEMENT WITH DANIELS INSURANCE FOR
INSURANCE BROKER AND CONSULTING SERVICES**

This Amendment is made and entered into as of this 30th day of September, 2015 by and between Santa Fe County, hereinafter referred to as the "County", a New Mexico political subdivision, and Daniels Insurance, Inc. hereafter referred to as the "Contractor".

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, and 13-1-117 NMSA 1978, competitive sealed proposals were solicited via a formal request for proposals Request for Proposal No. 2014-0002-LG/MS for the provision of professional services; and

WHEREAS, the County and Contractor entered into Agreement No. 2014-0002-LG/MS (the Agreement) on October 1, 2013 to provide for Contractor's provision of Insurance Broker and Consulting Services; and

WHEREAS, the Agreement provides for a term of one year with the option to extend the term in one-year increments not to exceed a term of four years total; and

WHEREAS, Amendment No. 1 extended the term of the Agreement from October 1, 2014 to October 1, 2015, amended the Contractor's Scope of Work to include specific additional deliverables, and increased the compensation payable to the Contractor by \$95,000 for the extended term; and

WHEREAS, the term of the Agreement will expire October 1, 2015, and the County wishes to extend the term of the Agreement for 31 days or one month until the County and Contractor reach mutual agreement on the compensation to be paid for a term extension of one year; and

WHEREAS, Article 15 (No Oral Modifications; Written Amendments Required) of the Agreement allows parties to amend the Agreement by an instrument in writing executed by both parties; and

WHEREAS, both parties wish to extend the term of the Agreement from October 1, 2015 to November 1, 2015 until mutual agreement is reached on the amount of compensation to be paid to the Contractor for the third year of the Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto mutually agree as follows.

1. Article 3. "EFFECTIVE DATE AND TERM" a new subparagraph B. is inserted to read as follows:

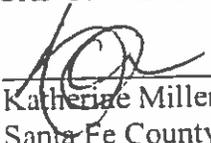
B. By Amendment No. 2, the County notifies Contractor and exercised the County's option to extend the term of Agreement No. 2014-0002-

LG/MS for an additional 31 days or a one month period from October 1, 2015 to November 1, 2015 to reach mutual agreement on the compensation payable to the Contractor for a one-year term extension.

2. All other provisions of Agreement No. 2014-0002-LG/MS not specifically amended or modified by Amendment No. 1 and this Amendment No. 2 shall remain in full force and effect.

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

SANTA FE COUNTY:

for 
Katherine Miller
Santa Fe County Manager

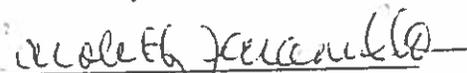
9.30.15
Date

Approved as to form:


Gregory S. Shaffer
Santa Fe County Attorney

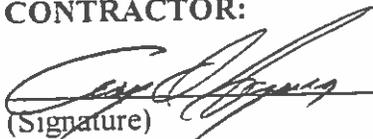
9/29/15
Date

Finance Department:


Carole H. Jaramillo
Finance Director

9/30/15
Date

CONTRACTOR:


(Signature)

9.30.15
Date


(Print Name)


(Print Title)

**AMENDMENT NO. 1
TO THE AGREEMENT WITH DANIELS INSURANCE, INC. FOR
INSURANCE BROKER AND CONSULTING SERVICES**

This Amendment is made and entered into as of this 1st day of October, 2014 by and between **Santa Fe County**, hereinafter referred to as "the County", a New Mexico political subdivision, and **Daniels Insurance, Inc.** hereafter referred to as "the Contractor".

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, and 13-1-117 NMSA 1978, competitive sealed proposals were solicited via a formal request for proposals Request for Proposal No. 2014-0002-LG/MS for the provision of the professional services; and

WHEREAS, the County and Contractor entered into Agreement No. 2014-0002-LG/MS on October 1, 2013 for a term of one (1) year and compensation of \$95,000 for the Contractor to provide Insurance Broker services; and

WHEREAS, Agreement 2014-0002-LG/MS has a term of (1) year with an option to extend the term in one (1) year increments. The term of the Agreement is due to expire October 1, 2014 and the County wishes to extend the term for one (1) year; and

WHEREAS, Article 15, "NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED," of Agreement No. 2014-0002-LG/MS allows parties to amend the Agreement by an instrument in writing executed by both parties; and

WHEREAS, both parties wish to extend the term of the Agreement from October 1, 2014 to October 1, 2015; amend the Contractor's Scope of Work to include specific deliverables as described herein; and to increase the Contractor's compensation by \$95,000 for the extended term. With this Amendment No. 1, the total contract sum for Agreement 2014-0002-LG/MS shall not exceed \$190,000.00, inclusive of NM grt; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties hereto mutually agree as follows.

1. Article 1. "SCOPE OF WORK" of Agreement 2014-0002-LG/MS is amended by adding the following as subparagraph "G":

G. Fees and Charges for Deliverables

Contractor shall invoice the County for fees or charges associated with any deliverables associated with the insurance broker services and work required and described in this Agreement. Deliverables include without limitation malpractice insurance, insurance premiums, claims, deductibles and any other services associated with the scope of services required in this Agreement.

2. Article 2. "COMPENSATION, INVOICING, AND SET-OFF" is amended by adding the following as subparagraph "(a)":

(a) By Amendment No. 1 to this Agreement, the Contractor's compensation is increased by Ninety Five Thousand Dollars and No Cents (\$95,000.00) for the term of October 1, 2014 to October 1, 2015. The specific monthly payments to the Contractor are as indicated on Exhibit A attached hereto and incorporated by reference.

The total amount payable to the Contractor under this Agreement as amended shall not exceed One Hundred Ninety Thousand Dollars (\$190,000.00), inclusive of NM grt.

3. Article 3 "EFFECTIVE DATE AND TERM" is amended by adding the following as subparagraph "A":

A. By Amendment No. 1, the County notifies the Contractor and exercised the County's first option to extend the term of Agreement No. 2014-0002-LG/MS for one (1) year from October 1, 2014 to October 1, 2015.

4. All other provisions of Agreement No. 2014-0002-LG/MS not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.

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

SANTA FE COUNTY:

Katherine Miller
Katherine Miller
Santa Fe County Manager

10.1.14
Date

APPROVED AS TO FORM:

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

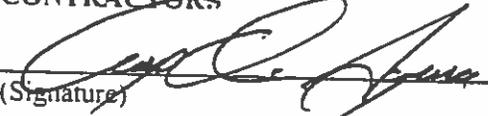
10-1-14
Date

FINANCE DEPARTMENT:

Teresa C. Martinez
Teresa C. Martinez
Santa Fe County Finance Director

10/1/14
Date

CONTRACTOR:


(Signature)

9.29.17
Date


(Print Name)


(Print Title)

FEDERAL IDENTIFICATION NO. 85-0092484

Exhibit A

To Contract# 2014-0002-LG/MS

Amount to Pay Monthly	Amount to Pay for 12 Months	Account Number
\$ 1,166.06	\$ 13,992.72	101-1517-412-7501
\$ 158.03	\$ 1,896.36	101-0489-461-7501
\$ 15.03	\$ 180.36	101-0605-443-7501
\$ 1,167.03	\$ 14,004.36	101-0702-415-7501
\$ 266.03	\$ 3,192.36	204-1611-451-7501
\$ 13.03	\$ 156.36	223-0420-451-7501
\$ 13.03	\$ 156.36	232-0421-461-7501
\$ 10.03	\$ 120.36	232-0474-461-7501
\$ 30.03	\$ 360.36	241-0404-464-7501
\$ 1,592.03	\$ 19,104.36	244-0801-421-7501
\$ 115.03	\$ 1,380.36	245-2101-461-7501
\$ 1,550.03	\$ 18,600.36	246-1201-424-7501
\$ 50.03	\$ 600.36	247-1801-426-7501
\$ 1,266.03	\$ 15,192.36	247-1860-426-7501
\$ 29.85	\$ 358.20	247-1862-426-7501
\$ 58.03	\$ 696.36	247-1863-426-7501
\$ 9.03	\$ 108.36	247-1865-426-7501
\$ 236.21	\$ 2,834.52	247-1870-426-7501
\$ 69.03	\$ 828.36	505-1410-444-7501
\$ 27.03	\$ 324.36	505-1420-445-7501
\$ 76.03	\$ 912.36	517-1930-471-7501
\$ 7,916.66	\$ 94,999.92	

Total

**PROFESSIONAL SERVICES AGREEMENT
WITH DANIELS INSURANCE, INC.
FOR INSURANCE BROKER AND CONSULTING SERVICES**

THIS AGREEMENT is made and entered into on this 1st day of October, 2013, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), a New Mexico political subdivision, and **DANIELS INSURANCE, INC.** (hereinafter referred to as the "Contractor").

WHEREAS, Santa Fe County requires the services of a qualified licensed insurance firm to provide Insurance Broker and Consulting Services for the County's insurances; and

WHEREAS, pursuant to Section 13-1-112 and 13-1-117 NMSA 1978, competitive sealed proposals were solicited via a formal request for proposals (RFP) #2014-0002-LG/MS, for the provision of the Professional Services; and

WHEREAS, based upon the evaluation criteria established within the request for proposals for the purposes of determining the most qualified Offeror, the County has determined Contractor as the most responsive and highest rated Offeror; and

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

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. SCOPE OF WORK

The Contractor shall provide full-service Insurance Broker Services to obtain and maintain a competitive public liability insurance program for the County that includes comprehensive public liability insurance and other insurance coverage described herein. The Contractor shall provide the Insurance Broker and Consulting Services that include, but not limited, to the following:

A. Insurance Broker Services

1. Provide access to the worldwide insurance marketplace.
2. Represent the County and not any insurance company.
3. Negotiate on behalf of County with insurance companies and keep County informed of significant developments.
4. Monitor published financial information of County's current insurers and alert County when their status falls below the Contractor's minimum guidelines and/or security committee clearance.

5. Shall not place or broker any business for the County with an insurance carrier that does not have an AM Besting A+ rating. Each carrier's A.M. Best rating will be provided with quotes to the County Risk Manager.
6. Solicit quotes from carriers in New Mexico as well as other national carriers for all insurance coverages.
7. Follow up with insurance carriers for timely issuance of policies and endorsements.
8. Review policies and endorsements for accuracy and conformity to specifications and negotiated coverage.
9. Provide coverage summaries for all new coverages and updates on changes to existing coverage.
10. Review all excess insurance policy documents and secure any necessary corrections on County's behalf.

B. Master County Coverage Document Maintenance and Consulting Services

1. Maintain and provide triplicate copies of all coverage forms.
2. Assist County staff with interpreting coverage document terms and conditions.
3. Maintain, issue, and provide County endorsements as appropriate.
4. Maintain coverage applications and maintain and provide County exposure summaries.
5. Review program coverage in force and make recommendations to County for improvements.
6. Review County competitors' coverage and strategies for needed improvements to County's program.
7. Manuscript needed endorsements as directed by County staff.

C. Underwriting Consulting Services

1. Assist in underwriting renewals with input from County staff in an effort to meet funding target as established by County.
2. Recommend deductibles and/or self-insured retentions as appropriate and as directed by County.

D. County Insurance Coverage Consulting

1. Annually, Contractor will develop a work plan in conjunction with County Staff for each service year.
2. Prepare a written report on each quarter's work which details activities performed under this agreement.

E. Advise County on Risk Program Design and Maintenance of the following coverages:

- AD&D
- Auto
- Bonds
- Boiler and Machine Insurance
- Builder's Risk
- Crime
- Electronic Data Processing (EDP)
- Employment Practices
- Environmental
- Equipment
- General
- Law Enforcement
- Medical Malpractice (Facility and Mobile Unit)
- Pollution
- Property
- Public Officials Liability
- Tenants Users Liability Insurance Policy (TULIP)
- Umbrella
- Volunteer Firefighter Insurance (VFIS)
- Worker's Compensation Insurance

F. Risk Services

1. Conduct risk assessments undertaken at the direction of the Risk Management Director, which may involve analysis of current risks, new agencies, programs, changes to Self Insured Retentions (SIR), deductibles, and other similar risk analysis projects.
2. Assistance with data compilations and interpretations.

2. 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 for an annual rate of Ninety Five Thousand Dollars and No Cents (\$95,000.00), inclusive of GRT.

2) 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. County will notify Contractor if and when County as paid Contractor the full not-to-exceed amount stated above prior to the expiration of the term of this Agreement. Absent an approved amendment to the contract amount, Contractor will not be compensated in excess of the not-to-exceed amount stated above for deliverables and services performed.

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 contractual items or services for which payment is sought. 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 items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services and withhold unacceptable or disputed amounts. 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.

3. 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, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The County has the option to extend the contract at the same price, terms and conditions for a period of three (3) additional years in one (1) year increments, upon the approval of the Santa Fe County. The County may exercise this option by submitting a written notice to Contractor that the Agreement will be extended an additional year. The notice must be submitted to Contractor at least sixty (60) days prior to expiration of the initial Agreement.

4. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in

Section 2, 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 written amendments to this Agreement.

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 requirements 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 are deliverables belonging to Santa Fe County. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, the County shall own 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. 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 the state district court 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: Daniels Insurance, Inc.
 805 St. Michaels Drive
 Santa Fe, New Mexico 87505

24. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. It is a Corporation duly organized and in good standing under the laws of the State of New Mexico.
- B. 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.
- C. This Agreement and the Contractor's obligations hereunder do not conflict with the Contractor's articles of incorporation or by-laws or any corporate resolution adopted by the Contractor.
- D. It will maintain throughout the life of this Agreement, its registration and licensure with the State of New Mexico.

25. FACSIMILE SIGNATURES

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

26. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation specified in Section 2, "COMPENSATION AND INVOICING," of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

27. NO THIRD-PARTY BENEFICIARIES

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

28. 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 \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Non-hired vehicle insurance coverage will be required for employees, temporary employees, and subcontractor using their personal vehicle. The Contractor will also have an Employee Dishonesty endorsement with their General Liability. 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 County of Santa Fe shall be a named additional insured on the policy.

C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

D. 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.

E. Malpractice/Errors and Omissions Insurance. Contractor shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance

with policy limits of not less than \$1,500,000.00 per occurrence, \$2,500,000.00 per aggregate.

29. 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.

30. 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.

31. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

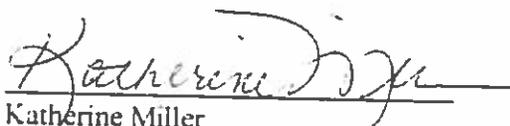
The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

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.

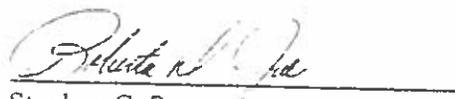
IN WITNESS WHEREOF, the parties have duly executed this Amendment to the Agreement as of the date first written above.

SANTA FE COUNTY:


Katherine Miller
Santa Fe County Manager

9.27.13
Date

Approved as to Form:


Stephen C. Ross
Santa Fe County Attorney

Sept. 5, 2013
Date

