

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH SURROUNDINGS STUDIO, LLC
FOR CONSULTING SERVICES FOR THE NORTHERN NEW MEXICO
RECREATION CENTER**

June **THIS AGREEMENT** is made and entered into this 17th day of June, 2013 by and between **Santa Fe County**, hereinafter referred to as “the County,” and **Surroundings Studio, LLC**, (a New Mexico Limited Liability Company) with a principal address located at 1600 Lena Street, #E3, Santa Fe, New Mexico 87505, hereinafter referred to as “the Contractor.”

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. 2013-0217-PW/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 the Contractor as the most responsive and highest rated Offeror; and

WHEREAS, the County desires to engage the Contractor to render certain necessary services as described in the RFP, and the Contractor is willing and capable of providing such services; and

WHEREAS, the County requires these services 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. PROJECT DESCRIPTION

The County identified a need for outdoor recreation parks in the northern part of Santa Fe County. The Contractor’s professional services are needed to assist the County with its assessment and evaluation of potential locations and preparation of sufficient planning information and data to enable the County to issue an RFP for the architectural and/ or engineering design of a recreation complex in northern Santa Fe County. The County anticipates that the regional recreation complex will be 80 to 150 acres in size and accessible from major thoroughfares. The complex is expected to serve the region along the NM 502, NM 68 and US 285 and US 84 corridors, generally bounded by Santa Fe on the south, Los Alamos on the west, and Taos on the northeast.

2. SCOPE OF WORK

A. The Contractor shall:

- 1) Design and facilitate an effective public input process and communication plan to incorporate meaningful input from the people and communities the recreation complex is intended to serve. The public process should involve, at a minimum, polling that reaches out to all regions mentioned above and attempts to report from a variety of demographics in the area, and consultation with the municipalities, Pueblos, unincorporated traditional communities, school districts, and recreational leagues in the service region. The contractor will be required to present its findings to the Santa Fe County Board of County Commissioners and develop a directory of recreational leagues and public and non-profit agencies that provide recreational services. The contractor shall provide a written report describing the public input process and communication plan as well as a proposed schedule for the County's approval.
- 2) Assess the demand for recreational facilities in the anticipated service region including the types of recreation and the number of users for both youth and adult.
- 3) Evaluate the capacity and condition of existing public and publicly accessible facilities in the region. Clearly articulate the service gap between the demand and what the existing facilities can support. Project the demand for recreational services 10-20 years into the future. The contractor shall present its findings from the assessment and evaluations in subparagraphs 2 and 3 in a written report to the County.
- 4) Develop an architectural or facility program for a regional recreational complex. Use the program to define the acreage required for the facility. The consultant shall prepare and submit to the County an architectural brief that identifies the goals and detailed requirements for the design of the proposed recreation complex. The brief shall address, but is not limited to, subparagraphs 5-7 below.
- 5) Identify a minimum of three (3) locations with available vacant land suitable for construction of the recreation complex. Consider, at a minimum, the proximity to major thoroughfares, topography, proximity to utilities, and proximity/availability of treated effluent water for irrigation, in the selection of potential sites.
- 6) Provide an opinion of probable construction cost for the facility with potential phasing.
- 7) Provide an opinion of staff requirements and annual cost to operate and maintain the recreation complex.

B. Deliverables

- 1) The Contractor will draft the Needs Assessment Report and submit one (1) electronic copy to the County, no later than five (5) months after the Notice to Proceed is issued by the County.
- 2) The Contractor will draft the Site Selection Report and submit one (1) electronic copy to the County, no later than six (6) months after the Notice to Proceed is issued by the County.
- 3) The Contractor will complete the Final Needs Assessment and Site Selection Reports, and submit four (4) bound hard copies and one 1 electronic copy, eight (8) months after the Notice to Proceed is issued by the County.

3. **EFFECTIVE DATE; CONTRACT TIME**

The effective date of this Agreement is the date of signature by the parties. The Contractor shall commence services on the date indicated on the Notice to Proceed issued by the County. The term of this Agreement is two (2) years, unless earlier terminated pursuant to Section 5. (Termination) of this Agreement.

4. **COMPENSATION AND INVOICING**

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

In no event shall the total compensation paid to Contractor by County under this Agreement exceed **One Hundred Fifty-Six Thousand Nine Hundred Fifty Three Dollars and No Cents (\$156,953.00)**, exclusive of gross receipts tax. The County shall pay Contractor at least once a month at the following hourly rates/cost schedule for 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. 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. Payment under this Agreement shall not foreclose the right of the County to recover

excessive or illegal payment.

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 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 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: Surroundings Studio, LLC
1600 Lena Street, #E3
Santa Fe, New Mexico 87505

24. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that 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.

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. Non-hired vehicle insurance coverage will be required for employees, temporary employees, and subcontractor using their personal vehicle. 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. SURVIVAL

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

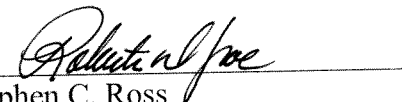
IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

SANTA FE COUNTY


Katherine Miller
Santa Fe County Manager

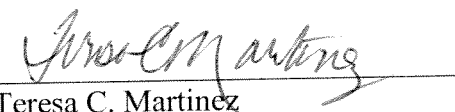
Date: June 17, 2013

APPROVED AS TO FORM


Stephen C. Ross
Santa Fe County Attorney

May 31, 2013
Date

FINANCE DEPARTMENT


Teresa C. Martinez
Santa Fe County Finance Director

6/14/13
Date

CONTRACTOR


(Signature)

5.22.13
Date

KENNETH FRANCIS, PRINCIPAL
(Print name and title)

FEDERAL IDENTIFICATION NUMBER: 26-2382380

Precedents Research

Prior regional recreation studies
 Santa Ana / Southern Sandoval Inv. + Bernalillo Co.
 MRC / BLM + City of Santa Fe
 Eco-Park / Taos City + Taos School District
 Review with County

1
 2
 2
 2
 1

24

26
 6
 6
 6
 3

Survey

Design Survey (Target 800 surveys)
 Conduct Intercept Survey
 On-Line Survey
 Review and Compile Results
 Review with County

2
 2
 1

Lump Sum
 Lump Sum
 Lump Sum
 Lump Sum
 1

2
 Lump Sum
 Lump Sum
 2
 3

Needs Assessment Report

Prepare coordinate document structure
 Write and produce report content
 Compile components
 Prepare program recommendations
 Prepare Draft Report
 Review report w/ County
 Distribute Draft Report - Public Website
 Final Draft Report

1
 16
 4
 4
 8
 2
 1
 4

16
 24
 4
 4
 8
 2
 2
 4

4
 92
 24
 10
 52
 6
 5
 16

Subtotal hours	117	7	238	18	156	22	586
Subtotal Fees	\$ 14,625	\$ 770	\$ 20,230	\$ 1,620	\$ 27,000	\$ 4,400	\$ 2,200
Needs Assessment Report Hours	586	excluding survey lump sum task					
Needs Assessment Report Fees	\$ 70,845	includes SWPM survey lump sum of \$18,000					

Task Description	Surroundings Studio				LA	SWPM	Wilson	Autotrophe	Task Hours Subtotal
	PIC 125	QA 110	PM 85	LA 90					
Site Selection - Initial GIS Identification									
Confirm program based on Needs Assessment with County	2		2			2	2		10
Develop spatial requirements based on program / site + arc	2	2	4			4	4		16
Develop site selection initial criteria	2		2			2	2		10
Review initial site selection criteria w/ County	1		1			2	1		5
GIS Site Selection for Size and Ownership Type	1		4						5
Compile results	2		8						10
Recommend 3 sites for capacity analysis	2								2
Review results with County	2		2			2	2		10
3 Site Capacity Analysis									
Create weighted selection criteria	1		1						5
Review weighted criteria with County	1		1			2	1		4
Notify owners of (3) sites for access to site	2		1			2			3
Prepare base mapping for (3) sites	1		4			24			29
Conduct capacity analysis of (3) Sites	4		16			52			72
Prepare 3 site analysis mapping and summary	4		36			24			72
<i>Option / Public presentation (3) Sites</i>					8				8
<i>Prepare for public presentation</i>									8
<i>Conduct public presentation</i>	6		8			8			34
Prepare recommendation site for Master Plan	4		4			2	2		12
Review with County	1		1			8			8
Preferred Site Master Plan									
Conduct site master plan work session	8		12						40
Prepare concept architectural for community facilities	1	2	8		4	4	8		11
Review site master plan and architectural concepts with Col	1	2	1			4			6
Prepare draft site master plan	8	2	24			20			62
<i>Option / Public presentation (3) Sites</i>					8				8
<i>Prepare for public presentation</i>	6		8						20
<i>Conduct public presentation</i>	4		4			2	2		12
Prepare draft site master plan documentation	4		16						20

**Northern New Mexico Regional Recreation Complex
Surroundings Subconsultant Personnel Hourly Rates
April 24, 2013**

Southwest Planning & Marketing	Hourly Rate
Chris Cordova /Principal-Owner	\$125
Bruce Poster / Lead Researcher	\$125
Fiscal Planner / Lead Real Estate Researcher	\$125
Research Assistant	\$75

Wilson & Co Engineers and Architects	Hourly Rate
Project Engineer Lead / Mario Infante-Juarez	\$175
Projece Manager / Donald Duneman	\$150
Design Engineer	\$124
CAD Drafter	\$72

Autotrophe	Hourly Rate
Alexander Dzurce - Owner	\$125
Project Manager	\$90
Design Architect	70
Administrative Assistant	\$45

Santa Fe County

RFP No.

Northern New Mexico Regional Recreation Complex

Surroundings Studio – Reimbursables Rates

Printing – In Office

11 x 17	1.25 / each print side
12 x 18	1.50 / each print side
8 1/2 x 11"	0.10 / each print side

Printing – Out of Office

BW 24 x 36	2.40 / per sheet
BW 30 x 42	3.50 / per sheet
BW 36 x 48	4.80 / per sheet
Color	2.00/sq. ft. thin bond
Color	4.00/sq. ft. thick bond

Prints	As invoiced + 10%
Binding	As invoiced + 10%
Collating	As invoiced + 10%

Mileage Rate

Per New Mexico State rate of \$0.44 per mile. Travel within Santa Fe, and from Albuquerque office to Santa Fe office is not chargeable.

Travel per Diem

Per New Mexico State travel per diem rate of \$85.00 per day.

