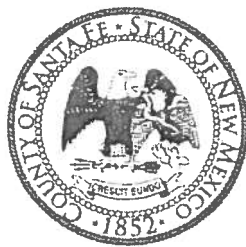


Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

TO: Santa Fe Board of County Commissioners

FR: Stephen C. Ross, County Attorney

DATE: April 30, 2013

RE: ***Request approval of six (6) Professional Service Contracts No. 2013-0170-LG/PL for general legal services, each in the amount of \$95,000, as requested by the County Attorney for a total of \$570,000.***

The Santa Fe County Attorney requires the legal services of specialists and experienced attorneys to represent the County in legal matters and legal cases involving specialized litigation and other areas of law.

The Legal Department and Purchasing Division issued Request for Proposals No. 2013-0170-LG/PL on January 6, 2013. The RFP was advertised on February 6 and 7, 2013 in the Albuquerque Journal and New Mexican, respectively, and posted on the County's website. Nine (9) firms or solo practitioners submitted proposals and six (6) proposals were selected as the most qualified as possessing the requisite expertise and experience as follows:

Basham & Basham, P.C's
Brown Law Firm
Long, Pound and Komer, P.A.
Montgomery and Andrews, P.S.
Serra & Garrity P.C.
Sheehan & Sheehan, P.A.

ACTION REQUESTED

The County Attorney and the Purchasing Division request authorization to enter into six (6) Professional Services Contracts No. 2013-0170-LG/PL to provide legal services as required by the County Attorney.

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
BASHAM & BASHAM, P.C.,
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the law firm of Basham & Basham, P.C., with its principal place of business located at 2205 Miguel Chavez Rd., Suite A, Santa Fe, New Mexico 86505, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of labor law, employment law, appellate practice, civil rights, torts, mandamus and injunctive relief, and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Senior Partner	\$ (requires County pre-approval)
Consultants	\$ (requires County pre-approval)
Partners	\$ (requires County pre-approval)
Associates	\$ 165.00
Law Clerks	\$ (requires County pre-approval)
Paralegals	\$ 60.00
Clerical	\$ (requires County pre-approval)
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$ (actual costs shall be supported by invoice or receipt)
Other (please describe)	\$ (actual costs shall be supported by invoice or receipt)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Act, NMSA 1978, Section 10-8-4, et.seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and

Mileage Act. Reimbursement for approved travel expenses shall not exceed the amount established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).

- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from April 15, 2013 to April 14, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

- 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 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 (i) 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 (ii) 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, counsel shall be retained 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.

11. RECORDS AND INSPECTIONS

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").

12. 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.

13. 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.

14. 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.

15. CONFIDENTIALITY

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

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

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.

17. 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.

18. 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.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal 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.

21. 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.

22. 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.

23. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 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.

24. NO THIRD-PARTY BENEFICIARIES

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

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. 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, § 41-4-1, et seq.

28. INSURANCE

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.

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 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.

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

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.

Malpractice/Errors and Omissions Insurance. The Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$3 million.

29. 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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Office of the County Attorney
102 Grant Ave.
Santa Fe, NM 87504

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Mark A. Basham
Basham & Basham
2205 Miguel Chavez Road, Suite A
Santa Fe, New Mexico 87505

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners


Date

ATTEST

Geraldine Salazar
Santa Fe County Clerk


Date

APPROVED AS TO FORM:


Stephen C. Ross,
Santa Fe County Attorney


April 8, 2013
Date

FINANCE DEPARTMENT APPROVAL:


Teresa C. Martinez
Santa Fe County Finance Director

4/13/13
Date

CONTRACTOR:


(Signature)

4/12/13
Date

Mark A. Bagham
(Print Name)

FEDERAL IDENTIFICATION NO.: 525 170088

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
THE BROWN LAW FIRM
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the Brown Law Firm, with its principal place of business located at 2901 Juan Tabo Blvd. NE, Suite 208, Albuquerque, New Mexico 87112, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of labor and employment law and civil rights, and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts tax.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Senior Partner	\$ 150.00
Consultants	\$ (requires County pre-approval)
Partners	\$ (requires County pre-approval)
Associates	\$ 120.00
Law Clerks	\$ (requires County pre-approval)
Paralegals	\$ 60.00
Clerical	\$ (requires County pre-approval)
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$.20
Other (legal research, postage, parking)	\$ Actual costs (supported by invoice or receipt)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Act, NMSA 1978, Section 10-8-4, et.seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and Mileage Act. Reimbursement for approved travel expenses shall not exceed amounts established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).

- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from April 25, 2013 to April 24, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

- 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 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 (i) 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 (ii) 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, counsel shall be retained 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.

11. RECORDS AND INSPECTIONS

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").

12. 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.

13. 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.

14. 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.

15. CONFIDENTIALITY

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

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

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.

17. 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.

18. 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.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal 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.

21. 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.

22. 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.

23. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 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.

24. NO THIRD-PARTY BENEFICIARIES

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

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. 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, § 41-4-1, et seq.

28. INSURANCE

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.

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 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.

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

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.

Malpractice/Errors and Omissions Insurance. The Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$3 million.

29. 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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Office of the County Attorney
102 Grant Ave.
Santa Fe, NM 87504

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Kevin M. Brown
Brown Law Firm
2901 Juan Tabo, NE, Suite 208
Albuquerque, New Mexico 87112

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners


Date

ATTEST

Geraldine Salazar
Santa Fe County Clerk


Date

APPROVED AS TO FORM:


Stephen C. Ross,
Santa Fe County Attorney

April 8, 2013
Date

FINANCE DEPARTMENT APPROVAL:


Teresa C. Martinez
Santa Fe County Finance Director

4/13/13
Date

CONTRACTOR:


(Signature)

4/2/13
Date

Kevin M Brown
(Print Name)

FEDERAL IDENTIFICATION NO.: 27-0483631

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
THE BROWN LAW FIRM
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the Brown Law Firm, with its principal place of business located at 2901 Juan Tabo Blvd. NE, Suite 208, Albuquerque, New Mexico 87112, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of labor and employment law and civil rights, and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts tax.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Senior Partner	\$ 150.00
Consultants	\$ (requires County pre-approval)
Partners	\$ (requires County pre-approval)
Associates	\$ 120.00
Law Clerks	\$ (requires County pre-approval)
Paralegals	\$ 60.00
Clerical	\$ (requires County pre-approval)
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$.20
Other (legal research, postage, parking)	\$ Actual costs (supported by invoice or receipt)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Act, NMSA 1978, Section 10-8-4, et.seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and Mileage Act. Reimbursement for approved travel expenses shall not exceed amounts established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).

- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from April 25, 2013 to April 24, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

- 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 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 (i) 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 (ii) 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, counsel shall be retained 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.

11. RECORDS AND INSPECTIONS

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").

12. 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.

13. 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.

14. 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.

15. CONFIDENTIALITY

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

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

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.

17. 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.

18. 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.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

- A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal 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.

21. 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.

22. 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.

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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, § 41-4-1, et seq.

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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.

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

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.

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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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
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All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Kevin M. Brown
Brown Law Firm
2901 Juan Tabo, NE, Suite 208
Albuquerque, New Mexico 87112

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners

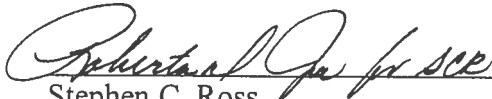
Date

ATTEST

Geraldine Salazar
Santa Fe County Clerk


Date

APPROVED AS TO FORM:


Stephen C. Ross,
Santa Fe County Attorney

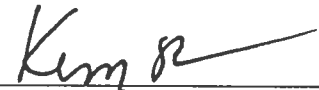
April 8, 2013
Date

FINANCE DEPARTMENT APPROVAL:


Teresa C. Martinez
Santa Fe County Finance Director

4/13/13
Date

CONTRACTOR:


(Signature)

4/2/13
Date

Kevin M Brown
(Print Name)

FEDERAL IDENTIFICATION NO.: 27-0483631

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
LONG, POUND AND KOMER
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the law firm of Long, Pound and Komer, Attorneys and Counselors at Law, with its principal place of business located at 2200 Brothers Road, Santa Fe, New Mexico, 87502-8513, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of appellate, civil rights, torts, land use and land use planning, construction law, mandamus and injunctive relief, and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts tax.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Senior Partner	\$ (requires County pre-approval)
Consultants	\$ (requires County pre-approval)
Partners	\$ 165.00
Associates	\$ 155.00
Law Clerks	\$ (requires County pre-approval)
Paralegals	\$ 70.00
Clerical	\$ (requires County pre-approval)
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$ N/C
Other (please describe)	\$ 0 (any actual costs shall be supported by invoice or receipt)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Act, NMSA 1978, Section 10-8-4, et seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and Mileage

Act. Reimbursement for approved travel expenses shall not exceed amounts established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).

- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from April 9, 2013 to April 8, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

- 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 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 (i) 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 (ii) 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, counsel shall be retained 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.

11. RECORDS AND INSPECTIONS

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").

12. 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.

13. 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.

14. 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.

15. CONFIDENTIALITY

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

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

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.

17. 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.

18. 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.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal 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.

21. 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.

22. 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.

23. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 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.

24. NO THIRD-PARTY BENEFICIARIES

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

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. 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, § 41-4-1, et seq.

28. INSURANCE

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.

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 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.

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

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.

Malpractice/Errors and Omissions Insurance. The Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$3 million.

29. 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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Office of the County Attorney
102 Grant Ave.
Santa Fe, NM 87504

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Nancy R. Long
Long, Pound and Komer
2200 Brothers Road
Santa Fe, New Mexico 87502-8513

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners

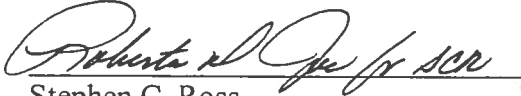
Date

ATTEST

Geraldine Salazar
Santa Fe County Clerk


Date

APPROVED AS TO FORM:


Stephen C. Ross,
Santa Fe County Attorney

April 8, 2013
Date

FINANCE DEPARTMENT APPROVAL:


Teresa C. Martinez
Santa Fe County Finance Director

4/13/13
Date

CONTRACTOR:


(Signature)

4-2-13
Date

Nancy R. Long
(Print Name)

FEDERAL IDENTIFICATION NO.: 850353074

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
MONTGOMERY & ANDREWS, P.S.,
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the law firm of Montgomery & Andrews, with its principal place of business located at 325 Paseo de Peralta, Santa Fe, New Mexico 87501, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of environmental law, water law, appellate practice, condemnation (inverse and direct), and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts tax.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Senior Partner	\$ 225.00
Consultants	\$ (requires County pre-approval)
Partners	\$ 200.00
Associates	\$ 125.00
Law Clerks	\$ 55.00
Paralegals	\$ 55.00
Clerical	\$ (requires County pre-approval)
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$ Actual costs (supported by invoice or receipt)
Other (please describe)	\$ (Actual costs shall be supported by invoice or receipt)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Act, NMSA 1978, Section 10-8-4, et.seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and

- Mileage Act. Reimbursement for approved travel expenses shall not exceed amounts established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).
- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from April 1, 2013 to March 31, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

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 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 (i) 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 (ii) 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, counsel shall be retained 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.

11. RECORDS AND INSPECTIONS

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").

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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.

13. 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.

14. 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.

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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.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal 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.

21. 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.

22. 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.

23. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 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.

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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. 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, § 41-4-1, et seq.

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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.

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

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.

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29. 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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Office of the County Attorney
102 Grant Ave.
Santa Fe, NM 87504

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Stephen S. Hamilton
Montgomery & Andrews Law Firm
325 Paseo de Peralta
Santa Fe, New Mexico 87501

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners

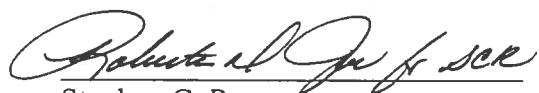
Date

ATTEST

Geraldine Salazar
Santa Fe County Clerk

Date

APPROVED AS TO FORM:



Stephen C. Ross,
Santa Fe County Attorney

April 8, 2013

Date

FINANCE DEPARTMENT APPROVAL:

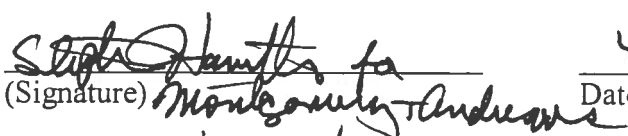


Teresa C. Martinez
Santa Fe County Finance Director

4/13/13

Date

CONTRACTOR:



(Signature)

4/1/13

Date

STEPHEN HAMILTON

(Print Name)

FEDERAL IDENTIFICATION NO.: 850262814

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
SERRA & GARRITY, P.C.,
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the law firm of Serra & Garrity, P.C., with its principal place of business located at 440 Cerrillos Road, Suite 4, Santa Fe, New Mexico 87501, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of labor and employment law, civil rights and torts, and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts tax.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Senior Partner	\$ 150.00
Consultants	\$ (requires County pre-approval)
Partners	\$ (requires County pre-approval)
Associates	\$ (requires County pre-approval)
Law Clerks	\$ (requires County pre-approval)
Paralegals	\$ 50.00
Clerical	\$ (requires County pre-approval)
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$.05/page
Other (please describe)	\$ (requires County pre-approval)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Acts, NMSA 1978, Section 10-8-4, et.seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and Mileage Act. Reimbursement for approved travel expenses shall not exceed amounts established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).

- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from May 9, 2013 to May 8, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

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 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 (i) 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 (ii) 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, counsel shall be retained 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.

11. RECORDS AND INSPECTIONS

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").

12. 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.

13. 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.

14. 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.

15. CONFIDENTIALITY

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

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

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.

17. 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.

18. 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.

19. 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.

20. EQUAL OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal 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.

21. 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.

22. 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.

23. NOTICE OF PENALTIES

The Procurement Code, NMSA 1978, Section 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.

24. NO THIRD-PARTY BENEFICIARIES

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

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. 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, § 41-4-1, et seq.

28. INSURANCE

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.

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 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.

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

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.

Malpractice/Errors and Omissions Insurance. The Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$3 million.

29. 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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Office of the County Attorney
102 Grant Ave.
Santa Fe, NM 87504

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Diane Garrity
Serra & Garrity, P.C.
440 Cerrillos Road, Suite 4
Santa Fe, New Mexico 87501

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners

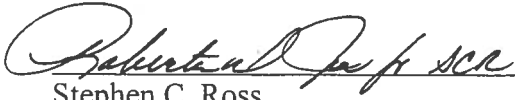
Date


ATTEST

Geraldine Salazar
Santa Fe County Clerk

Date

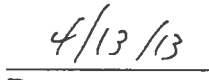
APPROVED AS TO FORM:


Stephen C. Ross,
Santa Fe County Attorney


Date

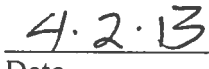
FINANCE DEPARTMENT APPROVAL:



Teresa C. Martinez
Santa Fe County Finance Director


Date

CONTRACTOR:


(Signature)


Date


(Print Name)

FEDERAL IDENTIFICATION NO.: 

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN SANTA FE COUNTY AND
SHEEHAN & SHEEHAN, P.A.,
FOR LEGAL SERVICES**

THIS AGREEMENT is made and entered into this _____ day of _____ 2013, by and between **Santa Fe County**, hereinafter referred to as the "County" and the law firm of Sheehan & Sheehan, P.A., with its principal place of business located at 128 Grant Avenue, Suite 225, Santa Fe, New Mexico 87501, hereinafter referred to as the "Contractor".

WHEREAS, the County requires legal assistance on matters as directed by the County Attorney;

WHEREAS, pursuant to NMSA 1978, Sections 13-1-112 and 13-1-153 of the Procurement Code, a request for proposals was issued for a multiple source award for legal services and completed through RFP No. 2013-0170-LG/PL;

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

NOW, THEREFORE, it is agreed between the parties:

1. SCOPE OF WORK

The Contractor shall render the following legal services:

- A. Legal services, including without limitation matters of water law, appellate practice, civil rights, torts, land use and land use planning, construction law, mandamus and injunctive relief, and other legal matters as directed by the Santa Fe County Attorney;
- B. Legal representation of Santa Fe County in state and federal courts, state agencies and other governmental entities;
- C. Legal assistance with litigation involving Santa Fe County;
- D. As directed by the Santa Fe County Attorney, brief County officials, employees, legal counsel and consultants. Contractor shall also participate in consultations with County officials, employees and consultants on questions of federal and state law which impact the County.

2. COMPENSATION AND INVOICING

- A. The total compensation to be paid under this Agreement, including fees and costs, shall not exceed Ninety-Five Thousand Dollars (\$95,000.00) exclusive of gross receipts tax.

The County shall pay to the Contractor for fees and reimbursable expenses based on the following:

<u>Staff Member</u>	<u>Hourly Rate</u>
Partners & Senior Partners	\$ 220.00
Partners (water law matters)	\$ 170.00
Consultants	\$ (requires County pre-approval)
Other Partners	\$ (requires County pre-approval)
Associates	\$ 200.00
Associates (water law matters)	\$ 150.00
Law Clerks	\$ 80.00
Paralegals	\$ 80.00
Clerical	\$ 75.00
Travel (mileage)	\$.44/mile
Copies or document reproduction:	\$.10 (B/W)/page; .50 (color)/page
Other (please describe)	\$ Actual costs (supported by invoice or receipt)

- B. The Contractor shall submit quarterly status reports to the County Attorney updating the County Attorney on the status of any litigation and all legal matters including related expenditures, for which the Contractor has provided legal services pursuant to this Agreement.
- C. The Contractor shall provide copies of all pleadings and correspondence produced by the Contractor and received by the Contractor in connection with any litigation or legal matter engaged in by the Contractor pursuant to this Agreement.
- D. The Contractor shall submit a written request for payment to the County once a month. 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 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.
- E. The County shall reimburse the Contractor reasonable travel expenses. Authorized travel shall be reimbursed at the rate set forth in the Travel and Per Diem Act, NMSA 1978, Section 10-8-4, et seq as amended by the County and at the mileage rate set forth in the Per Diem and Mileage Act and DFA Rule 95-1 regulations governing the Per Diem and

Mileage Act. Reimbursement for approved travel expenses shall not exceed amounts established in the Per Diem and Mileage Act and DFA Rule (2.42.2 NMAC).

- F. 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.
- G. 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 be effective upon the date indicated above and the Compensation set forth in Section 2 above shall be for legal services rendered from May 22, 2013 to May 21, 2015. The term of this Agreement is subject to extension in one (1) year increments not to exceed a term of four (4) years total, unless earlier terminated pursuant to Section 5 (Termination), of this 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 Paragraph 2 (Compensation and Invoicing) 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 fifteen (15) 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 fifteen (15) days, the breaching party shall have a reasonable time to cure the breach, provided that, within ten (10) days of its receipt of the written notice of termination, the breaching party (i) began to cure the breach and (ii) 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 ten (10) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the 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. 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.

7. 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.

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. INDEMNITY

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 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 (i) 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 (ii) 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, counsel shall be retained 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.

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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").

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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.

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

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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.

Malpractice/Errors and Omissions Insurance. The Contractor shall procure and maintain during the life of this Agreement professional liability or errors and omissions insurance in amounts not less than \$3 million.

29. 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 Secretary of State on Contractor's behalf.

30. SURVIVAL

The provisions of paragraphs 8, 9, 10, 11, 14, 15, 16, 22, 26, 27 and 28 shall survive termination of this Agreement.

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. NOTICES

All notices required to be given to the County under this Agreement shall be mailed (pre-postage paid) to:

Santa Fe County
Office of the County Attorney
102 Grant Ave.
Santa Fe, NM 87504

All notices required to be given to the Contractor under this Agreement shall be mailed (pre-postage paid) to:

Dan Gershon, Esq.
Sheehan & Sheehan, P.A.
40 First Plaza N.W., Suite 740
Albuquerque, New Mexico 87103

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

SANTA FE COUNTY:

Kathy Holian, Chairperson
Board of County Commissioners

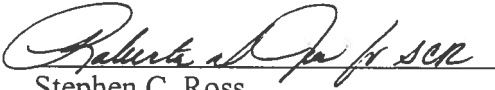
Date

ATTEST

Geraldine Salazar
Santa Fe County Clerk

Date

APPROVED AS TO FORM:


Stephen C. Ross,
Santa Fe County Attorney


April 8, 2013
Date

FINANCE DEPARTMENT APPROVAL:


Teresa C. Martinez
Santa Fe County Finance Director

4/13/13
Date

CONTRACTOR:


(Signature)
Daniel Gershon
(Print Name)

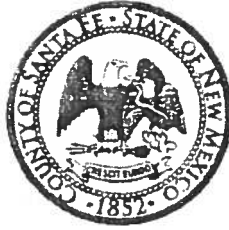
3/29/13
Date

FEDERAL IDENTIFICATION NO.: 850 294 698

Daniel "Danny" Mayfield
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: April 17, 2013

To: Santa Fe County Board of County Commissioners

From: Bill Taylor, Procurement Manager *BT 4/11/13*

Via: Adam Leigland, Public Works Director *AL 4/10/13*

Re: *Request Amendment No. 1 to Agreement between Owner and Engineer for professional services for the project generally known as water transmission line TL6S, in the amount of \$240,368.92 exclusive of GRT.*

Background:

The Commission authorized award of a contract with Molzen Corbin for the Engineering Services for the Water Transmission Line TL6S on February 13, 2012 in the amount of \$333,080.30, exclusive of GRT.

This project involves the installation of a new water transmission line that will ultimately make Buckman Direct Diversion (BDD) water available to a large segment of the population that resides in unincorporated areas of the County west of the New Mexico Department of Transportation (NMDOT) railroad line and south of the City of Santa Fe.

The cost proposals received for this project were based on certain assumptions of line rights and other facilities that would be required to convey water from the Rancho Viejo tank to a point on the distribution system at the Eldorado Area Water and Sanitation District (EAWSD). The first order of work for the project was to complete a preliminary study, prior to final design that would identify, evaluate and recommend the best of a number of alternate alignments to accomplish the primary intent of the project. During the course of the preliminary study, discussions with EAWSD were ongoing and a number of solutions were discussed. Ultimately, it was concluded that EAWSD cannot accept Buckman Direct Diversion (BDD) water through its system at this time, and an appropriate alignment was sought.

The required alignment for completion of the project includes, in general, 7.7 miles of water transmission line, 11 arroyo crossings, on SFSR crossing, one booster pump station and one 50,000 gallon pump control tank. This represents an increase of approximately 4.5 miles of water transmission line and the addition of a booster pump station and pump control tank, as well as additional arroyo crossings over what was originally contemplated when it was believed that conveying water through the EAWSD system was feasible. It is estimated that the construction time for this clarified scope will be 12 months rather than the originally estimated 8 months, and the time and cost for the resident project representative has been increased accordingly.

This amendment is within the anticipated scope of the project as described in the original Request for Proposals and reflects the necessary and appropriate cost adjustment required to complete the design of the additional lengths of line and appurtenant facilities.

Action Requested:

The Public Works Department requests authorization to enter into Amendment No. 1 to the contract with Molzen Corbin for the Engineering Services for the Water Transmission Line TL6S, formerly known as the Rail Trail Water Transmission Line, in the amount of \$240,368.92, exclusive of GRT.

Current Contract Amount:	\$333,080.30	Feb.13, 2012
Amendment #1 :	\$240,368.92	April 30, 2013
Revised Contract Amount:	\$573,448.92	exclusive of GRT

Santa Fe County

Fiscal Impact Report

Department / Division: Public Works/Utilities

Action Item to be Considered: Contract Amendment No. 1 TL6S

Agreement Number: 2012-0086-UT/MS

Indicate with a <input checked="" type="checkbox"/> below	Section 1 - Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input checked="" type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input type="checkbox"/>	Other:

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input checked="" type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds) Additional \$240,368.92 from 2008 GOB
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % \$ Source
<input type="checkbox"/>	Other:

Section 3 - Ongoing operations and maintenance (O&M) requirements:	
Short Term (Specify needs for the current fiscal year only)	
NA	
New FTE's # NA Position	Hourly Rate \$
Current Fiscal Year Cost \$	Annual Cost \$
Initial Costs (Vehicle, computer, office space, etc.)	
NA	
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources necessary for carrying out the job duties)	
NA	

Current Fiscal Year Cost \$ NA	Annual Cost \$ NA
Long Term (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs) NA	
Salary & Benefits: NA	
All other expenses: NA	

Section 4 - Revenue	
Short Term (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection). 	
Current FY Estimate \$ NA	
Long Term (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection). NA	
Annual Estimate \$ NA	Total (next 4 years) \$ NA

Additional Narrative
(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

The amendment increases the scope of the project, to accommodate unanticipated political turn of events. County and Eldorado agreement for the delivery of water to Canoncito did not materialize as originally conceived. The need to deliver safe water supply to Canoncito is increasingly urgent.

Prepared by Marla Doyle

Reviewed by M. Hogan

 File Attachment

 File Attachment

 File Attachment

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. 1

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: February 14, 2012
- b. Owner: Santa Fe County, 102 Grant Avenue, Santa Fe, NM
- c. Engineer: Molzen-Corbin & Associates, Inc., 2701 Miles Road SE, Suite 200, Santa Fe, NM
- d. Project: TL6S Waterline Project, Santa Fe County Contract No. 2012-0086-UT/MS

2 *Description of Modifications:*

WHEREAS, Contract No. 2012-0086-UT/MS between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer to include Study and Report, Preliminary Design, Final Design, and Bidding and Construction phase services for the design and or the completion of the Project known as the TL6S waterline;

WHEREAS, the County has determined that the portion of this project that anticipated the design of a waterline that would connect to the Eldorado Area Water and Sanitation District water system is not feasible;

WHEREAS, the Engineer's scope of services must be amended to provide for the Engineer's design of the TL6S waterline that will bypass the Eldorado Area Water and Sanitation District's water system;

WHEREAS, the contract must also be amended to increase the time estimate for construction and increase the project time on this project for the Engineer's Resident Project Representative;

WHEREAS, the Engineer has provided a proposal for the modified and additional design services that address this adjustment in the scope of services and the County has negotiated an adjustment to Contract No. 2012-0086-UT/MS;

WHEREAS, the parties desire to enter into this Amendment No. 1 to provide for the Owner's approval of modified and additional design services to the TL6S waterline project and an increase to the compensation for the Engineer's services;

WHEREAS, this Amendment No.1 will increase the contract sum by \$ 240,368.92 for a total contract sum of \$ 573,449.22, exclusive of NM GRT.

NOW, THEREFORE, CONTRACT NO. 2012-0086-UT/MS IS AMENDED AS FOLLOWS:

- a. The first and second paragraphs on Page 1 of Agreement No. 2012-0086-UT/MS which summarize the Owner's Project and the Engineer's services for the TL6S waterline project are deleted and replaced with the following:

The Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as the design and construction of a waterline from a 1.5 million gallon water reservoir located at Rancho Viejo within Sec. 23, T16N, R09E, NMPM, in Santa Fe County, NM, to eventually connect to a waterline system known as the Lamy Junction Waterline Project located southeast of Santa Fe, NM. The Engineer's services consist of the preparation of a preliminary design, completion of environmental investigation and documentation; site analysis, signage; subsurface utility engineering; drainage analysis and design; geotechnical investigation, preparation of an opinion of probable construction cost; access plans for repair and maintenance of the TL6S water transmission line; telemetry or other devices to remotely monitor transmission line pressure; a Traffic Control Plan; profile sheets, preparation of a final design plans, specification and drawings; and engineering services to be provided throughout the construction phase as more specifically described herein.

The Engineer's services include 7.7 miles of water transmission line, one crossing of the SFSR, eleven (11) arroyo crossings, one (1) water booster pumping station, and a 50,000 gallon pump control tank. The purpose of the TL6S is to provide water from the Buckman Direct Diversion plant to water users located in the unincorporated areas east and southeast of Santa Fe.

- b. Contract No. 2012-0086-UT/MS. A1.02.B.3. is deleted in its entirety.
- c. Contract No. 2012-0086-UT/MS, 6.04.C is amended by deleting the sentence "Owner shall require Contractor to cause Engineer and its Consultant to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project."
- d. Contract No. 2012-0086-UT/MS, 6.04.E. is amended by deleting this provision in its entirety.
- e. Contract No. 2012-0086-UT/MS, Exhibit C, C2.01.3.a through n are deleted and replaced with the following:
 - 3. The total compensation for services under Paragraph C2.01 is estimated to be Five Hundred Seventy Three Four Hundred Forty Nine Dollars and Twenty-two Cents (\$573,449.22), exclusive of NM GRT, based on the following estimated distribution of compensation:

a. Study and Report	\$ 37,170.00
b. Reimbursables	\$ 879.80
c. Preliminary Design (30% Completion)	\$ 56,830.00
Preliminary Design (70% Completion)	\$ 84,160.00
Final Design Phase	\$ 41,757.50
Bidding/Award	\$ 6,805.00
d. Construction Phase (12 months)	\$ 29,995.00
e. Post-Construction Phase	\$ 12,210.00
f. Subconsultants	\$ 8,690.00
g. Survey	\$ 24,031.00
h. Reimbursables	\$ 4,868.75
i. Geotechnical Investigation	\$ 19,250.00
j. Environmental Services	\$ 8,743.17
k. Drainage Analysis and Design, 404 Certification, 401 Permit	\$ 42,500.00
l. Resident Project Representative	\$181,434.00
m. Property Easement Coordination	\$ 5,000.00
n. Prepare, Process, obtain Approvals/ Permits from Private/Governmental Authorities	\$ 5,000.00
o. NMDOT ROW Permits	\$ 4,125.00
Total Services:	\$ 573,499.22, exclusive of NM GRT

- f. Contract No. 2012-0086-UT/MS, COMPENSATION PACKET RPR-2, C2.04.A.1, the reference to "\$ 105,000" fee is deleted and replaced with "\$ 157,500" fee; reference to "8"

months is deleted and replaced with "12" months; and reference to "1,400" hours is deleted, and replaced with "2,100" hours.

g. Agreement Summary

a. Original Agreement amount:	\$ 333,080.30
b. Net change for prior amendments:	\$ 0.0
c. This amendment amount:	\$ 240,368.92
d. Adjusted Agreement amount after this Amendment No. 1	\$ 573,449.22, exclusive of NM GRT

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No. 1. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

By: Kathleen S. Holian

By: 

Chair, Santa Fe Board of County
Commissioners

Title: 

Date
Signed: _____

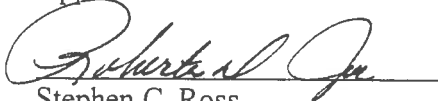
Date Signed: 3/27/13

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

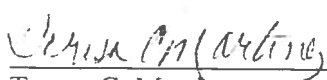
Date: _____

Approved as to form:


Stephen C. Ross
County Attorney

Date: April 2, 2013

Finance Department


Teresa C. Martinez

Date: 4/13/13

MOLZENCORBIN

December 18, 2012

Ms. Marla Doyle, P.E.
Utility Projects Senior Engineer
Santa Fe County
P.O. Box 276
Santa Fe, New Mexico 87504-0276

**RE: Water Transmission Line TL6S Project
Clarified Scope of Work Fee Proposal**

SFC121-20

Dear Ms. Doyle:

Per your email sent November 15, 2012, the County has requested a clarification of the scope of work for the TL6S Water Transmission Line Project.

The first enclosure, "TL6S Original Scope of Services", shows the summary sheet pertaining to the price proposal we submitted based on the request for proposals (RFP) issued for this project. The proposal was presented to the County based on the following scope of work:

- 4.6 miles of water transmission line, crossing seven (7) arroyos along the PNM easement from Rancho Viejo to the Eldorado Area Water and Sanitation District (EAWSD).

The County has determined that a connection with the EAWSD distribution system will not suitably meet the needs of County residents, especially those east of Eldorado, such as in Cañoncito. The County desires to deliver water directly to Cañoncito with a modification to the original alignment of TL6S. Revisions to the original scope reflecting this modification can be found in our "TL6S Clarified Scope of Services", also enclosed.

As directed by the County, the clarified scope of work for this project delivers water to the west side of I-25 near Lamy Junction, based on the following scope of work:

- 7.7 miles of water transmission line, eleven (11) arroyo crossings, one Santa Fe Southern Railway crossing, one booster pump station, and one 50,000-gallon pump control tank.

In the event that finalizing the Study and Report Phase determines the need for improvements not covered by this proposal, such as additional water line, inclusion of a chlorination station, or other facilities, we may need to submit a revised cost proposal for consideration by the County.

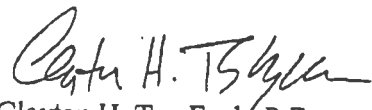
Upon authorization to proceed by the County for this clarified scope, we will issue the Final Report for the TL6S Water Transmission Line Project and commence the design process.

Ms. Marla Doyle, P.E.
December 18, 2012
Page 2

Please review all of this information and let me know if you have any questions. We are pleased to be collaborating with the County on this project.

Sincerely,

MOLZEN CORBIN

A handwritten signature in black ink, appearing to read "Clayton H. Ten Eyck".

Clayton H. Ten Eyck, P.E.

SM:ps
Enclosures

**Santa Fe County Utilities Department
Engineering Services for Water Transmission Line TL6S
Detailed Cost Proposal**

Task	Cost
Study and Report	
Study and Report	\$37,170.00
Reimbursables	\$879.80
Subtotal	\$38,049.80
Basic Design Services⁽¹⁾	
Preliminary Design (30% Completion)	\$56,830.00
Preliminary Design (70% Completion)	\$84,160.00
Final Design	\$41,757.50
Bidding or Negotiation	\$6,805.00
Construction (12 months)	\$29,995.00
Post-Construction	\$12,210.00
Subconsultants	\$8,690.00
Survey	\$24,031.00
Reimbursables	\$4,868.75
Subtotal	\$269,347.25
Additional Services	
Geotechnical Investigation	\$19,250.00
Environmental Services	\$8,743.17
Drainage Analysis/Design, 404 Certification, 401 Permit, NPDES - SWPPP	\$42,500.00
Resident Project Representative (12 months)	\$181,434.00
Property/Easement Coordination	\$5,000.00
Prepare, Process, Obtain Approvals/Permits from Private/Governmental Authorities	\$5,000.00
NMDOT ROW Permits	\$4,125.00
Subtotal	\$266,052.17
Total Professional Services (excluding NMGRT)	\$573,449.22

⁽¹⁾Basic Design Services are based on 7.7 miles of water transmission line, one Santa Fe Southern Railway crossing, one water booster pumping station, and a 50,000-gallon pump control tank. Additional transmission line or inclusion of additional pumping station, re-chlorination facilities, water tank, etc. may result in scope/cost adjustment.

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanica
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: April 17, 2013

TO: Board of County Commissioners

FROM: Bill Taylor, Purchasing Department Director

VIA: Adam Leigland, Public Works Director *ml 4/12/13*

RE: Request Approval of Amendment No. 3 To Contract 2011-0059-PW/MS for Project Representative, Inspection And Quality Assurance Services for Road Widening of County Road 98 (Juan Medina Road) in the Amount of \$147,233.08 (Purchasing/Bill Taylor)

BACKGROUND

Pursuant to NMSA 1978, Section 13-1-113 and 13-1-117, competitive, sealed proposals were solicited via a formal request for proposals (RFP) #2011-0059-PW/MS for Project Representative and Inspection Services for the road widening of County Road 98 (Juan Medina Road). The Louis Berger Group, Inc. was awarded a contract in the amount of \$114,004.33, exclusive of GRT to provide these services for the *western portion* of CR 98. Due to limited funding from the New Mexico Department of Transportation (NMDOT), only the *western portion* of CR98 was designed and constructed with completion occurring in September 2011.

The design and construction bid documents are near completion for the *eastern portion* of road widening of CR 98 (Juan Medina Road). Project Representative, Inspection and Quality Assurance Services are now required to be provided by Louis Berger Group to complete the *eastern portion* of CR 98 road construction.

Amendment No. 1 was executed on October 7, 2011 to increase the contract amount by \$40,749.07, due to schedule delays by the road construction contractor. The contract total was increased to \$154,753.40, exclusive of GRT.

Amendment No. 2 was executed on January 30, 2012, to increase the contract amount by \$7,871.60, due to construction completion and project closeout activities. The contract total was increased to \$162,625.00, exclusive of GRT.

ACTION REQUESTED:

Public Works requests approval to amend contract 2011-0059-PW/MS for The Louis Berger Group, Inc., to provide Project Representative, Inspection and Quality Assurance services for road widening of the *eastern portion* of CR 98 (Juan Medina Road). Phase II in the amount of **\$147,233.08**, excluding NMGRT bringing the contract amount to \$309,858.08, exclusive of GRT.

Santa Fe County

Fiscal Impact Report

Department / Division: Public Works - Projects

Action Item to be Considered: Contract Amendment Approval

Agreement Number: 2011-0059-PW/MS

Indicate with a <input checked="" type="checkbox"/> below	Section 1 -Identify the type of document below for BCC Consideration and Approval
<input type="checkbox"/>	Revenue, e.g. Grant, charges and fees, etc.
<input checked="" type="checkbox"/>	Contractual Services (includes change orders), e.g. Professional services agreement, construction, price agreement, joint powers agreement, lease agreement, etc.
<input type="checkbox"/>	Loan/Grant Agreement
<input type="checkbox"/>	Other:

Indicate with a <input checked="" type="checkbox"/> below	Section 2 - Funding Source Identify the item below for BCC Consideration and Approval
<input type="checkbox"/>	General Fund, e.g. property taxes, gross receipt taxes, etc.
<input type="checkbox"/>	Special Revenue Funds, e.g. Fire, Indigent, etc.
<input checked="" type="checkbox"/>	Capital Outlay GRT, (capital infrastructure only, does not include maintenance or repair costs)
<input checked="" type="checkbox"/>	Bond Proceeds (general obligation and gross receipt tax revenue bonds)
<input type="checkbox"/>	Grant Funds. If yes, indicate the percentage and amount required % and/or \$, and source. % \$ Source
<input type="checkbox"/>	Other:

Section 3 - Ongoing operations and maintenance (O&M) requirements:		
Short Term (Specify needs for the current fiscal year only)		
N/A. Submitting approval of this amendment is to continue Project Representative, Inspection and QA Services CR98 (Juan Medina Road).		
New FTE's # 0	Position N/A	Hourly Rate \$
Current Fiscal Year Cost \$ 147,233.08		Annual Cost \$
Initial Costs (Vehicle, computer, office space, etc.)		
\$147,233.08 (excluding NMGRT) for CR98 Phase II Project Representative, Inspection and QA Services		
O & M (Concisely identify the recurring needs, supplies, equipment, and the resources		

Road Maintenance N/A One time Construction.

Current Fiscal Year Cost \$

Annual Cost \$

Long Term (Specify the needs for the next four (4) years. This will include staff, O & M, asset renewal and replacement costs, and additional capital needs)

N/A One time construction

Salary & Benefits:

N/A

All other expenses:

N/A

Section 4 - Revenue

Short Term (Specify the revenue potential for the current fiscal year only. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

N/A

Current FY Estimate \$

Long Term (Specify the revenue potential for the next four (4) fiscal years. If a grant, specify the total grant award amount and the term. If a fee or charge for service, explain basis of revenue projection).

N/A

Annual Estimate \$

Total (next 4 years) \$

Additional Narrative

(Should include additional information such as significant issues, administrative issues and technical issues. What consequences, if any, may occur if this item is not acted upon):

Background Information: The Louis Berger Group, Inc. was selected as Project Representative, Inspection and QA services for the Road Widening for CR98 (Juan Medina Road). Based on funding availability, only the construction for the west side was completed. New GOB and Capital Outlay Funding is now available to complete the east side of CR98.

Amendment No. 3: Request approval to amend contract 2011-0059-PW/MS for The Louis Berger Group, Inc., to provide Project Representative, Inspection and QA services for Road Widening CR98 (Juan Medina Road) Phase II in the amount of \$147,233.08 (excluding NMGR) as per attached letter and Revision 2 fee proposal dated February 22, 2013.

Prepared by Chuck Vigil

Reviewed by

K. Min
4-19-13

**SANTA FE COUNTY
AMENDMENT NO. 3
TO THE PROFESSIONAL SERVICES AGREEMENT
WITH THE LOUIS BERGER GROUP, INC.
TO PROVIDE PROJECT REPRESENTATIVE AND INSPECTION SERVICES
FOR THE COUNTY ROAD 98 PROJECT**

THIS AMENDMENT is made and entered into as of this _____ day of _____, 2013, by and between the **Santa Fe County**, a political subdivision of the State of New Mexico (hereinafter referred to as "the County or Owner," and the **Louis Berger Group, Inc.**, a New Mexico corporation with a principal address of 2019 Galisteo St., Unit M-1, Santa Fe, New Mexico 87505, hereinafter referred to as "Project Representative or PR."

WHEREAS, pursuant to a request for proposals for project representative and inspection services, the County entered into Agreement No. 2011-0059-PW/MS with the Louis Berger Group, Inc. in the amount of \$114,004.33 to provide PR and inspection services on the County's construction project to widen County Road 98 (CR98);

WHEREAS, according to Article 17 (No Oral Modifications; Written Amendments) of the Agreement, the parties may amend the Agreement by an instrument in writing executed by the parties;

WHEREAS, by Amendment Nos. 1 and 2, the parties amended Contract No. 2011-0059-PW/MS to provide for continuation of services by the Contractor through construction and project close out of construction on the west side of CR98;

WHEREAS, Amendment Nos. 1 and 2 increased the contract sum by \$48,620.67, exclusive of NM GRT for a total contract sum of \$162,625.00;

WHEREAS, the County has secured funding for completion of the widening of CR98 on the east side of CR98 and wish to have Contractor continue to provide PR services, inspection and quality assurance (Q/A) services to project close out;

WHEREAS, the Contractor's continued PR, inspection and QA services requires a \$147,233.08 increase in the contract sum for a total contract sum of \$309,858.08, exclusive of NM GRT.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

1. Article 2.A (Compensation and Invoicing) of Contract No. 2011-0059-PW/MW is deleted and replaced with the following:

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

In no event shall the total compensation paid to PR by County under this Agreement exceed Three Hundred Nine Thousand Eight Hundred Fifty Eight Dollars and Eight Cents (\$309,858.08), exclusive of gross receipts tax.

The County shall pay PR at the hourly rates and for the services specified in "Attachment A", attached hereto and incorporated herein. Pursuant to Amendment No. 3 to provide for Contractor to continue PR and inspection services for the widening of the east side of CR98, the County shall pay PR at the hourly rates and for the services specified in "Attachment B", attached hereto and incorporated herein.

2. The attached documents labeled "Attachment B" are attached and incorporated by reference to Contract No. 2011-0059-PW/MS.
3. All other provisions of Contract No. 2011-0059-PW/MS, not amended, replaced or modified by Amendment Nos. 1, 2, or 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 BOARD OF COUNTY COMMISSIONERS

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

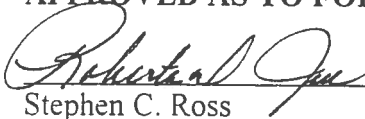
Date

ATTEST

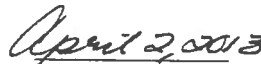
Geraldine Salazar, Santa Fe County Clerk

Date

APPROVED AS TO FORM:



Stephen C. Ross
Santa Fe County Attorney

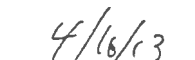


Date

FINANCE DEPARTMENT APPROVAL

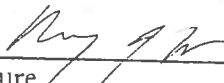


Teresa C. Martinez, Director



Date

CONTRACTOR:

By: 
Signature

3/25/13
Date

Roger J. Patton, Senior Vice President

Printed Name and Title

FEDERAL TAX I.D. NUMBER: #221754524

Activity	Estimated Work-Hours						
	Engineer-in-Charge Richard Rotto	Proj. Representative Ivan Trujillo	Sr. Designer Richard Chang	Sr. Hydrologist Parviz Eftekhari	Designer Andrew Pena	CADD Technician Calvin Sanchez	Construction Inspector John Sautier
Task I: Project Representation (for 90 working days)	127	256	0	0	0	40	350
A. General							
- Construction Manager / Inspector for 90 days at 9 hrs/day							810
B. Schedules							
- Review Schedules	2	8	-	-	-	-	incl.
C. Conferences & Meetings							
- Preconstruction Conference	8	8					incl.
- Weekly Construction Meetings (15 meetings at 2 hours long)	30	30					incl.
D. Liaison							
a) Serve as County's liaison with Contractor	4	16	-	-	-	-	incl.
b) Assist in obtaining from Owner additional details or information							incl.
c) Coordination of archaeological monitoring and concerns	TBD	TBD	TBD	TBD	TBD	TBD	incl.
E. Shop Drawings and Samples							
a) Record/Track	incl.	incl.	incl.	incl.	incl.	incl.	incl.
b) Notify Engineer	incl.	incl.	incl.	incl.	incl.	incl.	incl.
c) Advise Contractor and Owner	incl.	incl.	incl.	incl.	incl.	incl.	incl.
d) Review Shop Drawings	incl.	incl.	incl.	incl.	incl.	incl.	incl.
F. Modifications							
- Consider Modifications	incl.	incl.					incl.
G. Review Work and Rejection of Defective Work							
a) On-Site Observations							incl.
- Daily Inspection							incl.
- Weekly Inspection	14	30					
- Monthly Inspection	12	12					incl.
b) Notify Contractor	8	16					incl.
H. Inspections, QA Tests, System Start-Ups							
a) Verify QC/QA Tests and Test Documentation	4	16					incl.
b) Observe and record details of test procedures							incl.
c) Accompany and Document Visiting Public/Agency Inspectors							
d) Review SWPPP							
e) Provide all test and inspection reports to County						12	incl.
I. Records							
a) Maintain Orderly Files / Correspondance / Change Orders / Etc.		24					incl.
b) Prepare Daily Reports / Diary / Sourcebooks							incl.
c) Record names, addresses, etc							incl.
d) Maintain Records for for use in Preparing Documentation	6	12				24	40
e) Furnish Original Set of Documentation	4	4				4	incl.
J. Reports							
a) Prepare Periodic Reports							incl.
- Daily Inspection Log							incl.
- Weekly Reports							
- Monthly Inspection (3 monthly inspections at 3 hours each)	3	9					incl.
b) Review and Approve Change Orders/Directives/Field Orders	8	16					incl.
c) Furnish to Owner Copies of Documentation	4	4					incl.
d) Immediately Notify Owner		3					incl.
e) Update County		4					incl.
K. Payment Requests							
a) Review Applications for Payment (4 pay applications)	8	16					incl.
L. Certificates							
a) Verify Certificates		4					incl.
M. Completion							
a) Substantial Completion Inspection (Pre-Final Inspection)	4	8					incl.
b) Final Inspection	4	8					incl.
c) Observation of Final Inspection Punch List	4	8					incl.
Project Totals	127	256	0	0	0	40	350
							1229

LBG Staff Allocation	Direct Labor	Overhead	Fee	Total(s)	
	(Hourly)	156.15%	8%	Man-Hours	Cost
Engineer-in-Charge	\$ 40.38	\$ 63.05	\$ 8.27	127	\$ 14,186.92
Project Representative	\$ 42.07	\$ 65.69	\$ 8.62	256	\$ 29,794.12
Senior Designer	\$ 40.63	\$ 63.44	\$ 8.33	0	\$ -
Senior Hydrologist	\$ 55.00	\$ 85.88	\$ 11.27	0	\$ -
Designer	\$ 30.29	\$ 47.30	\$ 6.21	0	\$ -
CADD Technician	\$ 23.08	\$ 36.04	\$ 4.73	40	\$ 2,553.96
Construction Inspector	\$ 33.00	\$ 51.53	\$ 6.76	850	\$ 77,598.08
Sub-Total				1,273	\$ 124,133.08
Sub-Consultants					
QA Testing Allowance (Geo-Test, Inc.)					\$ 19,370.00
Sub-Total					\$ 19,370.00
Reimbursable					
Recordkeeping Supplies					\$ 350.00
Mileage	Estimated to be \$.41/mi. 8000 miles				\$ 3,280.00
Copying (\$0.10 per sheet)	Estimated to be \$0.10/sht. 1000 shts				\$ 100.00
Sub-Total					\$ 3,730.00
Estimated Budget					\$ 147,233.08

Negotiated Items	Total Budget	Itemized Savings	Total Savings	Geo-Test	LBG Budget
Original Fee Proposal	\$173,290.41	\$0.00	\$0.00	\$19,370.00	\$153,920.41
Fee from 10% to 8%	\$170,559.67	-\$2,730.74	-\$2,730.74	\$19,370.00	\$151,189.67
46 Man-hour Reduction	\$165,257.47	-\$5,302.20	-\$8,032.94	\$19,370.00	\$145,887.47
157 Man-hour Reduction	\$147,233.08	-\$18,024.39	-\$26,057.33	\$19,370.00	\$127,863.08

August 10, 2012

The Louis Berger Group
2019 Galisteo Street, #M1
Santa Fe, NM 87505

ATTN: Rich Rotto, P.E.

RE: CR98 Phase II Improvements
Quality Assurance Testing
Santa Fe, New Mexico

Dear Mr. Rotto:

Geo-Test, Inc. is submitting a cost proposal for materials testing of the above referenced project. The purpose of the testing would be for Quality Assurance testing on materials placed. It is our understanding that this project will include earthwork, portland cement concrete, utility backfill, and asphalt concrete. All testing on the project will be performed in accordance with the NMDOT Minimum Testing Requirements provided for the project.

Our estimated costs for providing materials testing for this project are as follows:

DESCRIPTION	QUANTITY	PRICE
Backfill for Drains NMDOT Section 605		
In-Place Density	<u>120hrs@\$48.00/hr</u>	\$5760.00
Moisture Density (Proctor)	<u>4ea@\$200.00/ea</u>	\$800.00
Foundations / Backfill for Drop Inlets and Junction Boxes, NMDOT Section 623		
In-Place Density	<u>30hrs@\$48.00/hr</u>	\$1440.00
Moisture Density (Proctor)	<u>2ea@\$200.00/ea</u>	\$400.00
Foundations / Backfill for Utilities, NMDOT Section 660		
In-Place Density	<u>10hrs@\$48.00/hr</u>	\$480.00
Moisture Density (Proctor)	<u>2ea@\$200.00</u>	\$400.00
Base Course, NMDOT Section 304		
In-Place Density & Thickness	<u>60hrs@\$48.00/hr</u>	\$2880.00
Moisture Density (Proctor)	<u>2ea@\$200.00/ea</u>	\$400.00
Gradations, FF, & PI	<u>10@\$120.00/ea</u>	\$1200.00
HMA Superpave, NMDOT Section 423		
Sampling HMA	<u>50hrs@\$48.00/hr</u>	\$2400.00
Asphalt Analysis (AC, Gradation, Gyratory Voids)	<u>6@\$335.00/ea</u>	\$2010.00
Core Density and Thickness	<u>12@\$30.00/ea</u>	\$360.00
Cold Feed (FF, SE, F&E, FAA)	<u>4@\$210.00/ea</u>	\$840.00
TOTAL		\$ 19,370.00

GEO-TEST, INC.
3204 RICHARDS LANE
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(505) 471-1101
FAX (505) 471-2245

8528 CALLE ALAMEDA
ALBUQUERQUE,
NEW MEXICO
87113
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2805-A LAS VEGAS CT
LAS CRUCES,
NEW MEXICO
88007
(575) 526-6260
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The above costs are based on an estimate of the amount of time and testing required for the project. The actual amount of testing will be dependant on the contractor's schedule and production rates. As an alternative to a lump sum amount, a not to exceed price should be

GEO-TEST

established and all invoices would reflect actual technician hours and testing accrued for the project. All hours and testing would be invoiced at the rates listed above or as listed in the attached unit fee schedule. The cost of testing may be substantially reduced if the contractor's production rates are higher than estimated or if testing frequencies are reduced. If a not to exceed price is established an article for written authorization to exceed the contract price should be included

In addition to the rates and amounts estimated above, a stand-by charge of \$48.00 per hour would be assessed for technician time, when testing is not being conducted. This would include items such as equipment failures or other delays beyond Geo-Test's control.

The above estimate is based on the following:

1. All technician time is based on normal working hours of 7:00 AM to 5:00 PM, Monday thru Friday, any hours spent outside of that time frame or on holidays would be invoiced at a rate of \$72.00 per hour.
2. All scheduling of testing will be conducted at least 24 hours prior to testing.
3. If the above costs are used as a lump-sum, all technician time and testing is based on a "call out" basis, not full time. It will be solely at the discretion of Geo-Test, Inc. to determine the amount of time required for a technician to remain on site to provide the minimum testing required. Any technician time, administrative time, testing or sampling performed beyond the minimum required, will be invoiced as an additional cost at the rates listed above or on our current unit fee schedule.
4. Testing quantities listed above are based on minimum test frequencies listed in the project specifications and drawings. Where testing is based on production (i.e. per day), reasonable production rates were used for estimating purposes.

We sincerely appreciate your consideration of our firm for the materials testing on this project. If additional testing services are required please refer to our attached unit fee schedule. If you have any questions or need additional information please contact our office.

Respectfully;
GEO-TEST, INC.


Tim Byres, Laboratory Manager

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GEO - TEST, INC.
UNIT FEE SCHEDULE
AUGUST 2009

PERSONNEL

Charges will be made based on the following unit rate for project rated time including travel to and from the project site.

Principal Engineer.....	\$165.00/hour
Registered Professional Engineer/Geologist.....	\$130.00/hour
Staff Eng./Geologist.....	\$100.00/hour
Senior Engineering Technician	\$ 60.00/hour
Engineering Technician	\$ 48.00/hour
Draftsman.....	\$ 60.00/hour
Typist.....	\$ 45.00/hour
Field Engineer	\$ 65.00/hour
Per Diem	\$ 80.00/ day
Overtime (1.50 X hourly rates)	

EQUIPMENT

Charges will be made on an hourly, mileage, or daily rate where applicable.

Vehicle (1/2 ton pickup - Over 30 miles)	\$ 0.75/mile
Copies - 2 No Charge, Over 2	\$ 0.25/page

SPECIAL SERVICE AND INSPECTION

Soil & Foundation Investigation - Quoted based on project scope

Caisson Inspection	\$ 48.00/hour
Compaction Control of Engineered Structural Fill	\$ 48.00/hour
Concrete Inspection and Control.....	\$ 48.00/hour
Bituminous Plant Calibration	\$ 48.00/hour
Concrete or Asphalt coring	\$ 100.00/hour
Outside Services and Material	cost + 20%
Windsor Probe	\$ 100.00/Set of 3
Fire Proofing Testing Onsite	\$ 48.00/hour
Special Inspection.....	\$65.00/hour

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LABORATORY TESTS

Soils:

Moisture - Density Relation Test	
Unit Cost (ASTM D-698)	\$ 95.00
Unit Cost (ASTM D-1557)	\$ 110.00
Sieve Analysis (3" - #200)(ASTM C-136)	\$ 45.00
Plasticity Index (Atterberg Limits)(ASTM D-4318)	\$ 45.00
Hydrometer Analysis (ASTM D-422)	\$ 200.00
Moisture Content	\$ 25.00
Expansion (Swell, Constant surcharge)	\$ 90.00
FHA Soil Volume Change Meter	\$ 90.00
Percent Consolidation	\$ 100.00
Time Rated Consolidation (ASTM D-2435)	\$ 350.00
Direct Shear (ASTM D-3080)	\$ 175.00
Permeability (Constant or Falling Head), Undisturbed	\$ 180.00
Permeability (Constant or Falling Head), Remolded	\$ 200.00
Unconsolidated Undrained Triaxial Shear (ASTM D-2850)	\$ 375.00/pt.
Unconfined Compression, Undisturbed (ASTM D-2166)	\$ 75.00
Unconfined Compression, Remolded (ASTM D-2166)	\$ 100.00
Density of Undisturbed Ring Sample	\$ 35.00
California Bearing Ratio (CBR) (ASTM D1883)	\$ 375.00
Specific Gravity - #10 Fraction) (ASTM D-854)	\$ 50.00
Sample Prep (Laboratory)	\$ 48.00/hour
Soil pH (ASTM G-51)	\$50.00
Soil Resistivity (ASTM G-57)	\$50.00
One Dimensional Swell (ASTM 4546)	\$375.00
Moisture Test Kits	\$25.00

CONCRETE

Compressive Strength Tests (Curing & Capping)	
Concrete Cylinders & Cubes (ASTM C-39)	\$ 15.00
Hold Cylinders not Tested	\$ 15.00
Flexural Strength (Beams) (ASTM C-78)	\$ 25.00
Concrete Cores (ASTM C-39)	\$ 25.00
Single use Cylinder Molds	\$ 2.00
Concrete Mix Design	\$ 1,500.00
Less Aggregate Tests/negotiable	\$1,000.00
CTB Mix Design	\$ 1,500.00

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ASPHALT

Asphaltic Concrete Pavement Analysis (includes extraction, gradation, Marshalls unit weight, flow, stability, calculation of air voids and voids filled per set of 3 Marshalls)

.....	\$ 275.00
Asphaltic Concrete Mix Design	\$ 2,500.00
Lab Verification of Asphalt Mix Design.....	\$ 700.00
Retained Stability of Bituminous Mixture (ASTM D-1075)	\$ 300.00
Asphalt Content & Gradation of Bituminous Mixture	\$ 100.00
Unit Weight, Stability & Flow (ASTM D-1559)	\$ 80.00
Asphalt Core Density and Length (ASTM D-2726).....	\$ 30.00
Maximum Theoretical Specific Gravity (ASTM D-2041)	\$ 60.00
OGFC Mix Design.....	\$ 500.00
Superpave Mix Design.....	\$5,000.00
Gyratory Specimens (AASHTO T-312)	\$175.00

AGGREGATE

Clay Lumps - Friable Particles (ASTM C-142)	\$ 50.00
Organic Impurities (ASTM C-40).....	\$ 75.00
Sand Equivalent (ASTM D-2419).....	\$ 50.00
Fractured Face Count + #4	\$ 30.00
Fractured Face Count + #10	\$ 35.00
Los Angeles Abrasion (ASTM C-131)	\$200.00
Magnesium or Sodium Sulfate Soundness (ASTM C-88).....	\$250.00
Specific Gravity & Absorption (Coarse or Fine Aggregate) (ASTM C-127,C-128)	\$ 70.00
Unit Weight (ASTM C-29)	\$ 40.00
Lightweight Pieces(ASTM C123)	\$120.00
Flat and Elongated pieces	\$ 50.00
Aggregate Correction Factor (ASTM C-231)	\$ 30.00
Uncompacted Void Content (Fine Agg.) (ASTM C-1252).....	\$50.00
Aggregate Soundness by Freeze/Thaw	\$150.00

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