

Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** August 31, 2016

**TO:** Board of County Commissioners

**FROM:** Bill Taylor, Procurement Manager, CPO

**VIA:** Katherine Miller, County Manager  
Jeffery Trujillo, ASD Director  
Michael Kelley, Public Works Department Director  
Claudia Borchert, Utilities Division Director

**ITEM AND ISSUE:** BCC Meeting September 13 2016

Request Approval of Amendment No. 7 to Engineer Agreement No. 2012-0055-UT/MS between Santa Fe County and Molzen Corbin in the Amount of \$49,755, Exclusive of GRT for the Lamy Junction Waterline Design Project and Authorization for the County Manager to Sign the Related Purchase Order and Execute the Contract Amendment. (Bill Taylor, Purchasing Division)

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**ISSUE:**

The County and the Engineer have identified additional costs related to the hours required of the Engineer in the final design phase and other costs related to permitting for a total amount of \$49,755.00.

Prior amendments to the Engineer Agreement No. 2012-0055-UT/MS have increased the original Agreement amount from \$411,368.96 to \$485,962.14. Approval of Amendment No. 7 in the amount of \$49,755.00 will increase the new Agreement amount by more than 10%. In accordance with County Resolution 2012-57, any amendment that increases the original contract amount by 10% or more shall be approved by the Board of County Commissioners.

**BACKGROUND:**

In April 2012, the Board approved Santa Fe County Utilities to enter into the Engineer Design Agreement No. 2012-0055-UT/MS with Molzen Corbin & Associates, Inc. to provide Design Services for the completion of the Lamy Junction Waterline Project. The Agreement was then amended as follows:

- Amend No. 1                      \$30,250.70

- |               |              |              |
|---------------|--------------|--------------|
| - Amend No. 2 | \$ 10,111.70 |              |
| - Amend No. 3 | \$ 34,230.78 | BCC Approval |
| - Amend No. 4 | \$ 7,227.70  |              |
| - Amend No. 5 | \$ 17,668.20 |              |
| - Amend No. 6 | \$ 6,733.83  |              |

**Total Contract Amt. -----\$517,591.87**

The project is currently at 60% of full design. Amendment No. 7 to Engineer Agreement No. 2012-0086-UT/MS is to address additional hours required of the Engineer and other costs related to permitting.

The Lamy Junction Waterline Project will connect to the TL6S Transmission Line to provide service to the Village of Canoncito.

**ACTION REQUESTED:**

The Purchasing Division and the Public Works Department are requesting BCC approval of Contract Amendment No. 7 to Engineer Agreement No. 2012-005-UT/MS with Molzen Corbin in the amount of \$49,755.00 exclusive of NM GRT for the Lamy Junction Waterline Design and request signature authority to be granted for the County Manager to execute the contract amendment.

**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 7**

*1. Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Waterline Project, Santa Fe County Contract No. 2012-0055-UT/MS

*2 Description of Modifications:*

WHEREAS, Contract No. 2012-0055-UT/MS (Contract) entered into by Santa Fe County ("Owner") and Molzin-Corbin & Associates, Inc. (Engineer) in 2012 provides for services to be provided by the Engineer consisting of Study and Report and Basic Design Services for the design for the completion of the Lamy Junction Waterline Project; and

WHEREAS, the Contract was amended in 2013 by Amendment No. 1 to adjust the Engineer's scope of design services, include the services of an RPR, and increase compensation by \$30,250.70 for a total contract sum of \$441,619.66; and

WHEREAS, the Contract was amended in 2014 by Amendment No. 2 to amend the Engineer's scope of services to provide for an environmental clearance report and environmental monitoring plan for a historic landmark and increase the compensation by \$10,111.70 for a total contract sum of \$451,731.36; and

WHEREAS, the Contract was amended in 2014 by Amendment No. 3 to provide for an environmental monitoring plan to be implemented during the construction phase, completion of construction specs to coordinate with an NMDOT interchange project, design of an access road, provide for SCADA, and increase the Contractor's reimbursables. Amendment No. 3 increased the compensation by \$34,230.78 for a total contract sum of \$485,962.14; and

WHEREAS, the Contract was amended in 2014 by Amendment No. 4 to provide for additional environmental monitoring relating to the Apache Canyon Waterline Relocation portion of the project and increase the compensation by \$7,227.70 for a total contract sum of \$493,189.84; and

WHEREAS, the Contract was amended in 2015 by Amendment No. 5 to provide for a \$7,860.00 design re-start fee assessed by the Engineer and increase the compensation by \$9,808.20 for design of an access road. Amendment No. 4 increased the compensation by \$17,668.20 for a total contract sum of \$510,858.04; and

WHEREAS, the Contract was amended in 2016 by Amendment No. 6 to provide for a comprehensive Cultural Resources Survey of the water transmission line and mapping and increase the compensation by \$6,733.83 for a total contract sum of \$517,591.87; and

WHEREAS, the Owner and the Engineer have identified additional costs related to the hours required of the Engineer in the Final Design Phase and other costs related to permitting for a total of \$49,755.00 for Final Design Phase services and permitting.

WHEREAS, this Amendment No. 7 will result in \$49,755.00 increase in the contract sum for the Lamy Junction Waterline Project resulting in a total contract sum of \$567,346.87.

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

a. Exhibit C, A.3, delete the references to "Five Hundred Seventeen Thousand Five Hundred Ninety One Dollars and Eighty Seven Cents (\$517,591.87)" and replace with "Five Hundred Sixty Seven Thousand Three Hundred Forty Six Dollars and Eighty Seven Cents (\$567,346.87)."

b. Exhibit C, A.3.b.3 is amended by increasing the \$41,987.50 sum designated for "Final Design Phase" by \$49,755.00. Subpart A.3.b. to read:

3. Final Design Phase	\$91,742.50
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c. Agreement Summary

a. Original Contract Sum:	\$ 411,368.96
b. Net change for prior amendments:	\$ 106,222.91
c. This amendment amount (increase)	\$ 49,755.00
d. Contract sum after this Amendment	\$ 567,346.87, exclusive of NM grt

No. 7

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No. 7. All provisions of the Agreement not modified by Amendment Nos. 1, 2, 3, 4, 5 and 6 and this Amendment No. 7 shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER SANTA FE COUNTY:

ENGINEER:

By: \_\_\_\_\_

Miguel M. Chavez, Chair  
Santa Fe County Board of County  
Commissioners

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date  
Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

ATTESTATION:

\_\_\_\_\_  
Geraldine Salazar,  
Santa Fe County Clerk

Approved as to form:

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

7-29-16  
Date

Finance Department:

  
\_\_\_\_\_  
Carole H. Jaramillo  
Finance Director

8/11/16  
Date



**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 6**

*1. Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Water Project, Santa Fe County Contract No. 2012-0055-UT/MS

*2 Description of Modifications:*

WHEREAS, Agreement No. 2012-0055-UT/MS (the Agreement) between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer consisting of Study and Report and Basic Design Services for the design and completion of the Lamy Junction Water Project; and

WHEREAS, the Agreement has been amended by Amendment Nos. 1, 2, 3, 4 and 5. Amendment No. 5, the most recent amendment dated July 9, 2015, increased the contract sum by \$17,668.20 for restart fees, survey and design services; and

WHEREAS, the Owner has requested the Engineer to provide additional Basic Services consisting of the completion of a comprehensive Cultural Resources Survey of the proposed location and construction area for the Lamy Junction Water Project. The Engineer is willing to provide such additional services with the assistance of subcontractor Marron & Associates, Inc. and these services will be provided to the County at a cost of \$6,733.83; and

WHEREAS, with this Amendment No. 6 the Owner and Engineer wish to amend the Agreement to provide for a the completion of a comprehensive Cultural Resources Survey by Engineer's subcontractor, mapping by the Engineer, and an increase in compensation in the amount of \$6,733.83

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

- a. Exhibit C, A.3. delete the reference to "Five Hundred Ten Thousand Eight Hundred Fifty Eight Dollars and Four Cents (\$510,858.04) exclusive of NM grt" and replace with "Five Hundred Seventeen Thousand Five Hundred Ninety One Dollars and Eighty Seven Cents (\$517,591.87) exclusive of NM grt."

b. Exhibit C, A.3.c. Additional Basic Services, insert the following item as 13:

13. Complete a Cultural Resource Survey of the location and construction area of the Lamy Junction Waterline Project. Engineer will also provide mapping and Coordination services relating to the Cultural Resource Survey. \$6,733.83

c. Exhibit C, A.3.c Total Services, delete the reference to "\$510,858.04" and replace with "\$517,591.87."

d. Agreement Summary

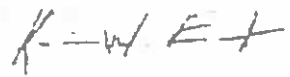
a. Original Agreement amount:	\$ 411,368.96
b. Net change for prior amendments:	\$ 99,489.08
c. This amendment amount:	\$ 6,733.83
d. Adjusted Agreement amount after this Amendment No. 6	\$ 517,591.87 exclusive of NM gr

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No.6. All provisions of the Agreement not modified or amended by Amendment Nos. 1, 2, 3, 4, 5 and this Amendment No. 6, shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

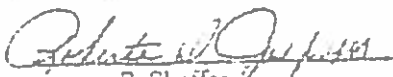
By:   
Katherine Miller  
Santa Fe County Manager

By:   
Title: VICE PRESIDENT - CIVIL

Date Signed: 2.4.16

Date Signed: 02/03/16

Approved as to form:

  
Gregory S. Shaffer  
County Attorney Date



Amendment No. 6 to Agreement No. 2012-0055-UT/MS

Approved:

Finance Department

Carole H. Jaramillo

Carole H. Jaramillo  
Finance Director

Date: 2/1/16



**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 5**

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Water Project, Santa Fe County Contract No. 2012-0055-UT/MS

2 *Description of Modifications:*

WHEREAS, Agreement No. 2012-0055-UT/MS (the Agreement) between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer consisting of Study and Report and Basic Design Services for the design and completion of the Lamy Junction Water Project; and

WHEREAS, the Agreement has been amended by Amendment Nos. 1, 2, 3 and 4. Amendment No. 4, the most recent amendment dated April 16, 2014, increased the contract sum by \$7,227.70 for additional hours of environmental monitoring; and

WHEREAS, the Owner has requested the Engineer to provide additional Basic Services relating to preparation of a redesign of an access road and a survey that are required for the Lamy Junction Water Project. The Engineer is willing to provide such additional services that were not in the initial scope of work of the Agreement and will provide such services upon payment of a Design Re-start Fee of \$7,860.00; and

WHEREAS, with this Amendment No. 5 the Owner and Engineer wish to amend the Agreement to provide for the Design Re-start Fee of \$7,860 and an increase of \$9,808.20 as compensation for the Engineer's completion of a survey for the alignment and easement location of an access road that provides access to a waterline and a water storage tank. and the completion of a re-design of the access road as part of the Lamy Junction Water Project.

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

- a. Exhibit C, A.3. delete the reference to "Four Hundred Ninety Three Thousand One Hundred Eighty Nine Dollars and Eighty Four Cents (\$493,189.84)." and replace with "Five Hundred Ten Thousand Eight Hundred Fifty Eight Dollars and Four Cents (\$510,858.04) exclusive of NM grt."

- b. Exhibit C, A.3.c. Additional Basic Services, insert the following items as 10, 11 and 12:

10. Design Re-start Fee	\$7,860.00
11. Survey of new alignment of waterline and storage tank access road	\$4,102.00
12. Design of the re-aligned access road	\$5,706.20

- c. Exhibit C, A.3.c Total Services, delete the reference to "\$493,189.84" and replace with "\$510,858.04."

- d. Exhibit C, B.1., is amended by inserting the following sentence: For services in C.A.3.c. 11 and 12 above, Owner shall pay for all Reimbursable Expenses at the rates set forth in Appendix 3 (attached hereto) to this Exhibit C.

e. Agreement Summary

a. Original Agreement amount:	\$ 411,368.96
b. Net change for prior amendments:	\$ 81,820.88
c. This amendment amount:	\$ 17,668.20
d. Adjusted Agreement amount after this Amendment No. 5	\$ 510,858.04 exclusive of NM grt

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No.5. All provisions of the Agreement not modified by Amendment Nos. 1, 2, 3, 4 and this Amendment No. 5 shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

Santa Fe County  
By: Katherine Miller  
Katherine Miller, Manager

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date Signed: 7 14 15

Date Signed: \_\_\_\_\_

Amendment No. 5 to Agreement No. 2012-0055-UT/MS

- b. Exhibit C, A.3.c. Additional Basic Services, insert the following items as 10, 11 and 12:

10. Design Re-start Fee	\$7,860.00
11. Survey of new alignment of waterline and storage tank access road	\$4,102.00
12. Design of the re-aligned access road	\$5,706.20

- c. Exhibit C, A.3.c Total Services, delete the reference to "\$493,189.84" and replace with "\$510,858.04."

- d. Exhibit C, B.1., is amended by inserting the following sentence: For services in C.A.3.c. 11 and 12 above, Owner shall pay for all Reimbursable Expenses at the rates set forth in Appendix 3 (attached hereto) to this Exhibit C.

e. Agreement Summary

a. Original Agreement amount:	\$ 411,368.96
b. Net change for prior amendments:	\$ 81,820.88
c. This amendment amount:	\$ 17,668.20
d. Adjusted Agreement amount after this Amendment No. 5	\$ 510,858.04 exclusive of NM grt

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No.5. All provisions of the Agreement not modified by Amendment Nos. 1, 2, 3, 4 and this Amendment No. 5 shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

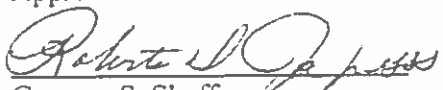
Santa Fe County  
By: Katherine Miller  
Katherine Miller, Manager

Molzen-Corbin & Associates, Inc.  
By: Adelmo E. Archuleta  
Title: President & Owner

Date  
Signed: 7.14.15

Date Signed: July 21, 2015

Approved as to form:

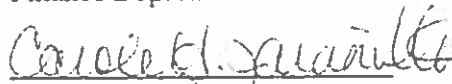


Gregory S. Shaffer  
County Attorney

Date: 7-6-15

Approved:

Finance Department



Carole H. Jaramillo, Director

Date: 7/9/15

**Appendix 3 to EXHIBIT C**

Reimbursables

Survey of new alignment of waterline and storage tank access road

In-House copies	\$ .11 per unit
In-House Color Copies (8 ½ X 11)	\$1.00 per unit
In-House Color Copies (11 X 17)	\$2.00 per unit
In-House Large Format Prints	\$3.00 per unit
Mileage	\$ .560 per mile
Meals	\$ 12.00





## AMENDMENT TO OWNER-ENGINEER AGREEMENT

### Amendment No. 4

#### 1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Water Project, Santa Fe County Contract No. 2012-0055-UT/MS

#### 2. *Description of Modifications:*

WHEREAS, Contract No. 2012-0055-UT/MS between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer consisting of Study and Report and Basic Design Services for the design and completion of the Lamy Junction Water Project;

WHEREAS, the easternmost 510-feet of this project within the Apache Canyon Exit near Interstate-25 (I-25, Exit 294 Cañoncito at Apache Canyon, near Santa Fe, NM) was originally scheduled for completion in October 2012, prior to a scheduled interchange project by the New Mexico Department of Transportation ("NMDOT") taking place in April 2014;

WHEREAS, the Owner and Engineer have determined that a portion of the Project must be separated from the total Project and completed prior to NMDOT's scheduled Cañoncito Interchange Project in April 2014;

WHEREAS, NMDOT stipulated that the County perform Environmental Monitoring on the Project within the limits of the Glorieta Battelfield National Historic Landmark;

WHEREAS, NMDOT requires preparation of a monitoring report after completion of work in the project area;

WHEREAS, the Apache Canyon Waterline Relocation portion of the Lamy Junction Project is taking longer than scheduled due to the discovery of archeological artifacts in the area and inaccuracies associated with Utility Locate Maps provided by NMDOT;

WHEREAS, to complete the Apache Canyon Waterline Relocation portion of the Lamy Junction Project, an additional eighty (80) hours of environmental monitoring will be required of the Contractor at an cost increase of \$7,227.70;

WHEREAS, by Amendment Nos. 1, 2 and 3 to this Agreement, the contract sum has been increased from \$411,386.96 to \$485,962.14;

WHEREAS, with this Amendment No. 4 to provide for the Contractor's performance of additional environmental monitoring services, the contract sum will increase by \$7,277.70.

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

- a. Exhibit C, A.3. delete the reference to "Four Hundred Eighty Five Thousand Nine Hundred Sixty Two Dollars and Fourteen Cents (\$485,962.14)" and replace with "Four Hundred Ninety Three Thousand One Hundred Eighty Nine Dollars and Eighty Four Cents (\$493,189.84)."
- b. Exhibit C, A.3.c.2. Environmental Services, delete the reference to "\$45,699.19" and replace with "\$52,926.89."
- c. Exhibit C, A.3. Total Services, delete the reference to "\$485,962.14" and replace with "\$493,189.84."
- d. Agreement Summary

a. Original Agreement amount:	\$ 411,368.96
b. Net change for prior amendments:	\$ 74,593.18
c. This amendment amount:	\$ 7,227.70
d. Adjusted Agreement amount after this Amendment No. 4	\$ 493,189.84, exclusive of NM GRT

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No. 4. All provisions of the Agreement not modified by Amendment Nos. 1 - 3 or this Amendment No. 4 shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

By: Katherine Miller  
Katherine Miller, Manager

Molzen-Corbin & Associates, Inc.  
By: Adelmo E. Archuleta  
Title: President & Owner

Date Signed: 11/11/14

Date Signed: 4/16/14

Approved as to form:

Stephen C. Ross

Stephen C. Ross  
County Attorney

Date: 7/8/14

Approved:

Finance Department

Teresa C. Martinez  
Teresa C. Martinez, Director

Date: 7/6/14



**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 3**

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Water Project, Santa Fe County Contract No. 2012-0055-UT/MS

2. *Description of Modifications:*

WHEREAS, Contract No. 2012-0055-UT/MS between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer consisting of Study and Report and Basic Design Services for the design and completion of the Lamy Junction Water Project for a contract sum of \$411,368.96;

WHEREAS, the Engineer's scope of services includes field investigation and completion of an environmental clearance report for the New Mexico Department of Transportation (NMDOT) for property that is within NMDOT right of way and that will be affected by the construction of the proposed waterline;

WHEREAS, by Amendment No. 1, Contract No. 2012-0055-UT/MS was amended in March 2013 to revise the scope of work for the Lamy Junction Water Project and provide for a \$30,250.70 increase in the contract sum related to the adjustment of components of the overall plan for the design and completion of the Project;

WHEREAS, by Amendment No. 2, Contract No. 2012-0055-UT/MS was amended in January 2014 to provide for a realignment of the waterline to avoid rock trenching; the completion of an environmental monitoring plan required by NMDOT for the Glorieta Battlefield National Historic Landmark site; and generally clarify other provisions of the Contract;

WHEREAS, Amendment No. 2 also increased the contract sum by \$10,111.70;

WHEREAS, by Amendment No. 3, the parties desire to amend the Contract to provide for the Engineer's completion of a environmental monitoring plan to be implemented during the

construction phase; completion of the environmental monitoring report to be submitted to NMDOT; preparation of construction specifications to coordinate the project with the NMDOT's Cañoncito Interchange Project; design of an access road; design of the Lamy Junction Project to be SCADA capable; and an increase in the Engineer's Reimbursables;

WHEREAS, Amendment No. 3 will result in a \$34,230.78 increase in the contract sum for a total contract sum of \$485,962.14.

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

- a. Exhibit C, A.3. delete the reference to "Four Hundred Fifty One Thousand Seven Hundred Thirty One Dollars and Thirty-Six Cents (\$451,731.36)" and replace with "Four Hundred Eight Five Thousand Nine Hundred Sixty Two Dollars and Fourteen Cents (\$485,962.14)."
- b. Exhibit C, A.3.b. 9. Reimbursables, delete the reference to "\$5,092.00" and replace with "\$7,354.00."
- c. Exhibit C, A.3.c.1. Geotechnical Services, delete the reference to "\$33,946.00" and replace it with "\$38,346.00."
- d. Exhibit C, A.3.c.2. Environmental Services, delete the reference to "\$25,665.41" and replace with "\$45,699.19"
- e. Exhibit C, A.3. c. Additional Basic Services, insert the following as items 8 and 9:

8. Preparation of Specifications for Construction in NMDOT Project Limits	\$ 2,940.00
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9. Design of SCADA capable system	\$ 4,595.00
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- f. Exhibit C, A.3, Total Services. delete the reference to "\$451,731.36." and replace with "\$485,962.14."

- g. Appendix 1 to Exhibit C. Reimbursables, delete the itemization indicated for "Survey reimbursables" and replace with:

In-House copies	.10 per unit
Mileage	.55 per mile
Meals	<u>\$39.00 per day</u>
Total not to exceed \$992.80	

h. Agreement Summary

a. Original Agreement amount:	S 411,368.96
b. Net change for prior amendments:	S 40,362.40
c. This amendment amount:	S 34,230.78
d. Adjusted Agreement amount after this Amendment No. 3	S 485,962.14, exclusive of NM GRT

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No. 3. All provisions of the Agreement not modified by Amendment Nos. 1 and 2, or this Amendment No. 3 shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

By:

Daniel W. Mayfield  
Daniel W. Mayfield, Chair  
Santa Fe County Board of County  
Commissioners

By:

Title:

President

Date  
Signed:

2/25/14

Date Signed:

2/18/14

ATTEST:

Geraldine Salazar  
Geraldine Salazar  
Santa Fe County Clerk

Date

2/25/2014

Approved as to form:

Stephen C. Ross  
Stephen C. Ross  
County Attorney

Date:

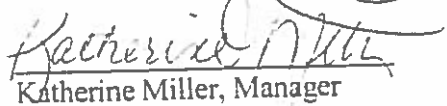
2/14/13

Approved:

Finance Department

  
Teresa C. Martinez, Director

Date: 2/14/14

  
Katherine Miller, Manager

Date: 2-18-14



**AMENDMENT TO OWNER-ENGINEER AGREEMENT**  
**Amendment No. 2**

1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Water Project, Santa Fe County Contract No. 2012-0055-UT/MS

2 *Description of Modifications:*

WHEREAS, Contract No. 2012-0055-UT/MS between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer consisting of Study and Report and Basic Design Services for the design and completion of the Lamy Junction Water Project;

WHEREAS, the Engineer's scope of services includes field investigation and completion of an environmental clearance report for the New Mexico Department of Transportation (NMDOT) for property that is within NMDOT right of way and that will be affected by the location of the proposed waterline;

WHEREAS, Contract No. 2012-0055-UT/MS was amended in March 2013 to revise the scope of work for the Lamy Junction Water Project and provide for a \$30,250.70 increase in the contract sum related to the adjustment of components of the overall plan for the design and completion of the Project;

WHEREAS, the Owner and Engineer have determined that the original proposed alignment waterline along the western portion of the Old Las Vegas Highway needs to be realigned to avoid rock trenching;

WHEREAS, the Engineer must also perform environmental monitoring and an environmental monitoring plan for the proposed waterline alignment that may impact the Glorieta Battlefield National Historic Landmark site;

WHEREAS, the Engineer needs to amend its environmental clearance report which has been submitted to NMDOT to include an environmental report pertaining to this waterline realignment and complete the environmental monitoring plan pertaining to the Glorieta Battlefield National Historic Landmark site;

WHEREAS, the Engineer's amendment to the environmental clearance report and preparation of an environmental monitoring plan results in a \$10,111.70 increase in the contract sum for a total contract sum of \$451,731.36, exclusive of NM GRT.

WHEREAS, the parties desire to enter into this Amendment No. 2 to provide for the Owner's approval of the Engineer's amendment the environmental clearance report for NMDOT, the Engineer's environmental monitoring and preparation of an environmental monitoring plan for the Glorieta Battlefield National Historic Landmark site, and general clarification of Contract No. 2012-0055-UT/MS.

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

- a. The second paragraph on Page 1 of Agreement No. 2012-0055-UT/MS which summarizes the Lamy Junction Water Project is amended by deleting:

Pursuant to Amendment No. 1 to this Agreement, the Owner's Project will be completed in one phase to include one 250,000-gallon tank, 4.8 miles of 10" water line running along Old Las Vegas Highway from the 250,000-gallon tank to the Apache Canyon Church, two crossings of I-25, one crossing of US 285, two crossings of Old Las Vegas Highway, a PRV Station, one booster pump station and one 50,000-gallon pump control tank.

Replace with:

The Owner's Project will be completed in one phase to include adequate storage facilities and waterline running along Old Las Vegas Highway to supply customers in the area. The Project shall consist of adequately sized water lines; storage tank(s); stub outs and connections; necessary crossings of interstates and highways; adequately sized and located pressure relief valve stations; adequately sized and located booster pump stations with control tank(s); and any other appurtenances and fixtures that may be necessary for adequate water delivery to the area.

- b. Part 5.C.1, delete the phrase "all three (3) phases".
- c. Part 7, definition #20, delete the terms "Phases I, II and III" and replace with "the Project."
- d. Part 7, delete the reference to definition "#24" and replaced with "#25" and all subsequent definitions re-numbered.
- e. Part 7, definition of "Substantial Completion", delete the phrase "(or a specified Phase thereof)" and the phrase "all or any Phase."

- f. Part 7, definition of "Total Project Cost", delete the phrase "Phase I, Phase II and Phase III" and replace with "the Project."
- g. Exhibit A, delete the phrase "APPLICABLE TO PHASES I, II AND III" in the exhibit title.
- h. Exhibit A, Part 1, A.4. delete the sentence "Since the completion of Owner's entire project is subject to availability of funding, all alternate solutions shall be designed so as to provide for construction of the entire Project into at least three (3) construction phases: Phase I, Phase II, and Phase III."
- i. Exhibit A, Part 1, C.4. delete the terms "Phase I, Phase II and Phase III of".
- j. Exhibit A, Part 1, C.6. delete the terms "for Phase I, Phase II and Phase III,".
- k. Exhibit A, Part 1, D.1. delete the phrase "in three (3) phases: Phase I, Phase II and Phase II (sic) so that the project is advertised for construction bids no later than October 16, 2012" and replace with "of the Project."
- l. Exhibit A, Part 1, F.(A)16. delete the terms "Phase I" and "Phase I of" and replace with "the Project."
- m. Exhibit A, Part 1, F.(A)17. delete "(for Phase I)".
- n. Exhibit A, Part 1, F.(B), delete "for Phase I".
- o. Exhibit A, Part 2.A.12. delete "for construction of Phases II and III".
- p. Exhibit A, Part 2.A.15. delete "Phase I".
- q. Exhibit A, Part 2.B.1.g. delete "of Phase I" and "Phase I". Delete "A1.05.B" and replace with "Part 1.F.(B) Duration of Construction Phase."
- r. Exhibit C, A.3. delete the reference to "Four Hundred Forty One Thousand Six Hundred Nineteen Dollars and Sixty-Six Cents (\$441,619.66)," and replace with "Four Hundred Fifty One Thousand Seven Hundred Thirty One Dollars and Thirty-Six Cents (\$451,731.36)."
- s. Exhibit C, A.3.c.2. Environmental Services, delete the reference to "\$15,553.71" and replace with "\$25,665.41."
- t. Exhibit C, A.3, Total Services, delete the reference to "\$441,619.66" and replace with "\$451,731.36."
- u. Agreement Summary
  - a. Original Agreement amount: \$ 411,368.96
  - b. Net change for prior amendments: \$ 30,250.70
  - c. This amendment amount: \$ 10,111.70

d. Adjusted Agreement amount after  
this Amendment No. 2

\$ 451,731.36, exclusive of NM  
GRT

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment No. 2. All provisions of the Agreement not modified by Amendment No. 1 or this Amendment No. 2 shall remain in full force and effect. The Effective Date of this Amendment is upon signature of both parties hereto.

OWNER:

ENGINEER:

Katherine Miller

By: Katherine Miller, County Manager

By:

[Signature]

Title:

President / owner

Date  
Signed:

1-10-14

Date Signed:

1-6-14

Approved as to form:

[Signature]  
Stephen C. Ross  
County Attorney

Date: 1-6-14

Finance Department

[Signature]  
Teresa C. Martinez

Date:

1/8/14

## AMENDMENT TO OWNER-ENGINEER AGREEMENT

### Amendment No. 1

#### 1. *Background Data:*

- a. Effective Date of Owner-Engineer Agreement: April 24, 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: Lamy Junction Water Project, Santa Fe County Contract No. 2012-0055-UT/MS

#### 2 *Description of Modifications:*

WHEREAS, Contract No. 2012-0055-UT/MS between Santa Fe County ("Owner") and the Engineer provides for services to be provided by the Engineer to include Study and Report and Basic Design Services for the design for the completion of the Project in three separate phases;

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

WHEREAS, the Engineer's scope of services must be adjusted to require the completion of the design for the entire project that does not connect to, or use the Eldorado Area Water and Sanitation District water system;

WHEREAS, the Engineer has provided a proposal for design services that address this adjustment in the scope of services and the County has negotiated an adjustment to the contract whereby the Engineer's scope of services will occur without designated phases;

WHEREAS, the parties desire to enter into this Amendment No. 1 to provide for the Owner's approval of certain design services to the Lamy Junction Water Project and an increase to the compensation for the Engineer's services during the Study and Report Phase, and completion of a design and construction oversight for the entire project;

WHEREAS, the parties also wish to enter in this Amendment No. 1 to clarify specific provisions of Contract No. 2012-0055-UT/MS that reference the project's completion in phases and provisions regarding duties of the County with regarding to insurance;

WHEREAS, this Amendment No.1 will increase the total contract by a sum of \$30,250.70 for a total contract sum of \$ 441,619.66, exclusive of NM GRT.

NOW, THEREFORE, CONTRACT NO. 2012-0055-UT/MS IS AMENDED AS FOLLOWS:

- a. The second paragraph on Page 1 of Agreement No. 2012-0055-UT/MS which summarizes the Lamy Junction Water Project is amended by deleting:

The water transmission line would convey water from the Eldorado Area Water and Sanitation District to Customers of the Canoncito Mutual Domestic Water Association as well as other users in the vicinity. Completion of construction of the entire Lamy Junction Water project is subject to the Owner's available appropriations and funding and will be completed in Phases I, II and III.

Replace with:

Pursuant to Amendment No. 1 to this Agreement, the Owner's Project will be completed in one phase to include one 250,000-gallon tank, 4.8 miles of 10" water line running along Old Las Vegas Highway from the 250,000-gallon tank to the Apache Canyon Church, two crossings of I-25, one crossing of US 285, two crossings of Old Las Vegas Highway, a PRV Station, one booster pump station and one 50,000-gallon pump control tank.

- b. Contract No. 2012-0055-UT/MS, PART 3.B.2 is amended by deleting the phrase "after the completion of construction of Phase I due to availability of funding,"
- c. Contract No. 2012-0055-UT/MS, PART 3.B.3 is amended by deleting the phrase "of Phase I of construction."
- d. Contract No. 2012-0055-UT/MS, PART 5.C.1 is amended by deleting "all three (3) phases of."
- e. Contract No. 2012-0055-UT/MS, PART 6.N.3 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."
- f. Contract No. 2012-0055-UT/MS, PART 6.N.5. is amended by deleting this provision in its entirety.
- g. Contract No. 2012-0055-UT/MS, PART 6.O.A.1 is amended by deleting A.1 in its entirety and replace it with:

1. By Owner: Owner may suspend the Project upon seven days written notice to Engineer

- h. Contract No. 2012-0055-UT/MS, PART 6.W.7 is deleted in its entirety.
- i. Contract No. 2012-0055-UT/MS, PART 7. A.6 is amended by deleting "consisting of construction Phase I, Phase II and Phase III,"
- j. Contract No. 2012-0055-UT/MS, PART 7 – DEFINITIONS, is amended by inserting the following definition as #24 and re-numbering subsequent definitions accordingly:
  - 24. Resident Project Representative – The authorized representative of Engineer assigned to assist Engineer during the Construction Phase. The Resident Project Representative will be Engineer's agent or employee and under Engineer's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit I.
- k. Contract No. 2012-0055-UT/MS, PART 7.A.32 is amended by deleting "of Phase I, Phase II and Phase III" and replace with "the Project."
- l. Contract No. 2012-0055-UT/MS, Exhibit A, Section F Construction Phase, is amended by inserting the following as #2 and re-numbering subsequent provisions accordingly:
  - 2. Resident Project Representative (RPR). Provide the services of an RPR to assist the Engineer and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit I. The furnishing of such RPR's services will not limit, extend, or modify Engineer's responsibilities or authority except as expressly set forth in Exhibit I.
- m. Contract No. 2012-0055-UT/MS. PART 8 – EXHIBITS is amended by inserting reference to "Exhibit I - Resident Project Representative's Duties."
- n. Contract No. 2012-0055-UT/MS, Exhibit C. A.3.a through f is deleted and replace with the following:

#### **Engineer's Compensation**

- A. Owner shall pay Engineer for Professional Services as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer's subconsultants' charges, if any.

2. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.

3. The total compensation for services under this Agreement is estimated to be Four Hundred Forty One Thousand Six Hundred Nineteen Dollars and Sixty-Six Cents (\$441,619.66), excluding NM GRT, based on the following estimated distribution of compensation:

a. Study and Report Phase

1. Study and Report	\$ 36,465.00
2. Reimbursables	\$ 992.80

b. Basic Design Services.

1. Preliminary Design (30% Completion)	\$ 46,130.00
2. Preliminary Design (70% Completion)	\$ 89,835.00
3. Final Design Phase	\$ 41,987.50
4. Bidding/Award	\$ 6,805.00
5. Construction Admin. (12 months)	\$ 29,995.00
6. Post-Construction Phase	\$ 13,350.00
7. Survey	\$ 23,757.65
8. Subconsultants	\$ 10,560.00
9. Reimbursables	\$ 5,092.00

c. Additional Basic Services

1. Geotechnical Investigation	\$ 33,946.00
2. Environmental Services	\$ 15,553.71
3. Drainage Analysis/Design, 404 Certification, 401 Permit, NPDES- SWPPP	\$ 26,000.00



4. Resident Project Representative	\$ 48,425.00
5. Property Easements Coordination	\$ 2,500.00
6. Prepare, Process, obtain Approvals/ Permits from Private/Governmental Authorities	\$ 2,500.00
7. NMDOT ROW Permits	\$ 7,725.00

**Total Services:**

**\$ 441,619.66, exclusive of  
NM GRT**

o. Contract No. 2012-0055-UT/MS, PART 1 – ENGINEER’S SCOPE OF SERVICES is amended by inserting the following as subpart B:

B. Engineer’s Resident Project Representative shall provide the services set forth in Exhibit I.

p. Contract No. 2012-0055-UT/MS is amended by incorporating the attached “EXHIBIT I.”

q. Other portions of the Agreement are modified as follows:

r. Agreement Summary

a. Original Agreement amount:	\$ 411,368.96
b. Net change for prior amendments:	\$ 0.0
c. This amendment amount:	\$ 30,250.70
d. Adjusted Agreement amount after this Amendment No. 1	\$ <b>441,619.66, exclusive of NM GRT</b>

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:

Katherine Miller

By: Katherine Miller, County Manager

ENGINEER:

Adelmo E. Archuleta

By: Adelmo E. Archuleta

Title: President & Owner

Date  
Signed:

3 13 13

Date Signed:

March 18, 2013

Approved as to form:

Stephen C. Ross  
Stephen C. Ross  
County Attorney

Date: 2/28/13

Finance Department

Teresa C. Martinez  
Teresa C. Martinez

Date: 3/7/13

OWNER:

Katherine Miller

By: Katherine Miller, County Manager

Date

Signed:

3-13-13

ENGINEER:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Approved as to form:

Stephen C. Ross  
Stephen C. Ross  
County Attorney

Date: 2/28/13

Finance Department

Teresa C. Martinez  
Teresa C. Martinez

Date: 3/7/13

## EXHIBIT I

### Engineer's Resident Project Representative

Pursuant to Amendment No. 1 to Contract No. 2012-0055-UT/MS, Engineer shall furnish a Resident Project Representative ("RPR") to assist in observing progress and quality of the Work. The RPR may provide full time representation or may provide representation to a lesser degree.

Through such additional observations of Contractor's work in progress and field checks of materials and equipment by the RPR. Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the Work. However, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over the Contractor's Work nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to the Contractor's work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's performing and furnishing the Work, or responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific terms set forth in section A.1.05 of Exhibit A of the Agreement are applicable.

A. The duties and responsibilities of the RPR are as follows:

- (a) RPR is Engineer's agent at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions. RPR's dealings in matters pertaining to the Contractor's work in progress shall in general be with Engineer and Contractor, keeping Owner advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner with the knowledge of and under the direction of Engineer.
- (b) Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and schedule of values prepared by Contractor and consult with Engineer concerning acceptability.
- (c) Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
- (d) Serve as Engineer's liaison with Contractor, working principally through Contractor's superintendent, assist in providing information regarding the intent of the Contract Documents. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.

- (e) Shop Drawings and Samples. Record date of receipt of Samples and approved Shop Drawings. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
- (f) Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
- (g) Review and Rejection of Defective Work:
- (h) Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
- (i) Report to Engineer whenever RPR believes that any part of Contractor's work in progress will not produce a completed Project that conforms generally to the Contract Documents or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- (j) Inspections, Tests, and System Startups. Consult with Engineer in advance of scheduled major inspections, tests, and systems startups of important phases of the Work. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections, and report to Engineer.
- (k) Records. Maintain at the Site orderly files for correspondence, reports of job conferences, reproductions of original Contract Documents including all Change Orders, Field Orders, Work Change Directives, Addenda, additional Drawings issued subsequent to the execution of the Contract, Engineer's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing and Sample submittals received from and delivered to Contractor, and other Project-related documents. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer. And, record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of

all Contractors, subcontractors, and major suppliers of materials and equipment. Maintain records for use in preparing Project documentation. Upon completion of the Work, furnish original set of all RPR Project documentation to Engineer.

(m) Reports. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor. Furnish to Engineer and Owner copies of all inspection, test, and system start-up reports. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, damage to property by fire or other causes, or the discovery of any Constituent of Concern. .

(n) Payment Applications. Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.

(o) Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Specifications to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.

(p) Completion. Participate in a Substantial Completion inspection, assist in the determination of Substantial Completion and the preparation of lists of items to be completed or corrected. Participate in a final inspection in the company of Engineer, Owner, and Contractor and prepare a final list of items to be completed and deficiencies to be remedied. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the Notice of Acceptability of the Work.

**B. Resident Project Representative shall not:**

(a) Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).

(b) Exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.

(c) Undertake any of the responsibilities of Contractor, subcontractors, suppliers, or Contractor's superintendent.

(d) Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work unless such advice or directions are specifically required by the Contract Documents.

(e) Advise on, issue directions regarding, or assume control over safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

(f) Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.

(g) Accept Shop Drawing or Sample submittals from anyone other than Contractor.

(h) Authorize Owner to occupy the Project in whole or in part.





**AGREEMENT  
BETWEEN OWNER SANTA FE COUNTY  
AND MOLZEN-CORBIN & ASSOCIATES  
FOR  
ENGINEER SERVICES**

This Agreement dated April 24, 2012 between Santa Fe County, a political subdivision of the State of New Mexico (Owner) and Molzen-Corbin & Associates, Inc., 2701 Miles Road SE, Suite 200, Albuquerque, NM 87106 (Engineer).

Owner's Project of which Engineer's services are as stated in this Agreement is the construction of an 8" water transmission line that extends from a reservoir tank located at Lamy Junction (intersection of NM 285 and the Old Las Vegas Highway) to the intersection of Ojo de la Vaca and the Old Las Vegas Highway in Santa Fe County (hereinafter the "Lamy Junction Water Project"). The water transmission line would convey water from the Eldorado Area Water and Sanitation District to customers of the Canoncito Mutual Domestic Water Association as well as other users in the vicinity. Completion of construction of the entire Lamy Junction Water Project is subject to the Owner's available appropriations and funding and will be completed in Phases I, II and III.

Owner and Engineer further agree as follows:

**PART 1 - ENGINEER'S SCOPE OF SERVICES**

**1. Scope.**

- A. Engineer shall provide the services set forth herein and in Exhibit A.

**PART 2 - OWNER'S DUTIES**

**General.**

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Exhibit C.
- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

## **PART 3 - SCHEDULE FOR SERVICES**

### **A. Commencement**

1. The Effective Date of this Agreement is the date that the last party executes this Agreement. Engineer is authorized to begin rendering engineering services as of the date indicated in the Notice to Proceed issued by the Owner.

### **B. Time for Completion.**

1. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
2. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended after the completion of construction Phase I due to availability of funding, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, may be adjusted in accordance with Part 6.W.7. herein.
3. If Owner authorizes changes in the scope, extent, or character of Phase I of construction of the Project, then the time for completion of Engineer's services, and the amount of Engineer's compensation, may be adjusted but limited to the unit pricing and hourly rates set forth in Exhibit C.
4. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
5. If Engineer fails, through its own fault, to complete the performance required in this Agreement within the time set forth, as duly adjusted, then Owner shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

## **PART 4 - INVOICES AND PAYMENTS**

A. Preparation and Submittal of Invoices: Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days net of Owner's receipt of Engineer's invoice.

### **B. Payments**

1. Application to Interest and Principal: Payment will be credited first to any interest owed to Engineer and then to principal.
2. Failure to Pay: If Owner fails to make any payment due Engineer for services and expenses within 30 days net after receipt of Engineer's invoice, then:
  - a. amounts due Engineer will be increased at the rate of 1.5% per month from said thirtieth day; and

b. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.

C. Disputed Invoices: If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.

D. Legislative Actions: If after the Effective Date any governmental entity takes a legislative action that imposes taxes on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new tax as a Reimbursable Expense. Owner shall reimburse Engineer for the cost of such invoiced new taxes; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

## **PART 5- OPINIONS OF COST**

### **A. Opinions of Probable Construction Cost**

1. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

### **B. Designing to Construction Cost Limit**

1. If a Construction Cost limit is established between Owner and Engineer, such Construction Cost limit and a statement of Engineer's rights and responsibilities with respect thereto will be specifically set forth in an amendment to this Agreement.

### **C. Opinions of Total Project Costs**

1. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Total Project Costs shall consist of Engineer's opinion of the cost of all three (3) phases of construction. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

## **PART 6 - GENERAL PROVISIONS**

### **A. Standards of Performance**

1. Standard of Care: The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality.

Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.

B. Technical Accuracy: Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

C. Consultants: Engineer may employ such consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.

D. Reliance on Others: Subject to the standard of care set forth in A.1. above, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

E. Compliance with laws and regulations, policies and procedures:

1. Engineer and Owner shall comply with applicable Laws and regulations.
2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in A.1. above, and to the extent compliance is not inconsistent with professional practice requirements.
3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.

F. Engineer shall not be required to sign any documents, no matter by who requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.

G. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.

H. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

I. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.

J. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.

K. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

L. Design Without Construction Phase Services.

1. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Engineer in Exhibit A.

M. Use of Documents.

1. All Documents are instruments of service in respect to this Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

2. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures will be set forth in an exhibit.

3. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.

4. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.

5. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner or its agent. Engineer grants Owner a limited license to use the Documents on the Project, extensions, modifications or revisions of the Project, and for related uses of the Owner or its agent, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) such limited license to Owner shall not create any rights in third parties.

6. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions, modifications or revisions of the Project or for any other purpose that exceeds the Engineer's scope of services described in Exhibit A to this Agreement, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

#### N. Insurance

1. Engineer shall procure and maintain insurance as set forth in Exhibit E (Insurance). Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.

2. Owner shall procure and maintain insurance coverage as is usual for this type of project.

3. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

4. Engineer shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit E. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.

5. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.

6. All Engineer's policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and to each other additional insured (if any) to which a certificate of insurance has been issued.

7. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than or in addition to those specified in Exhibit E. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit E will be supplemented to incorporate these requirements.

#### O. Suspension and Termination

##### A. Suspension:

1. By Owner: Owner may suspend construction Phase I of the Project for up to ninety (90) days upon seven (7) days written notice to Engineer. Owner may suspend construction Phases II and III of the Project until such time as appropriations are obtained upon thirty (30) days written notice to Engineer. Following a suspension of services due to lack of appropriation, Owner shall provide no less than ninety (90) days notice to Engineer of Owner's continuance of Engineer's services under this agreement.
2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

##### B. Termination: The obligation to provide further services under this Agreement may be terminated:

1. For cause,
  - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
  - b. By Engineer:
    - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
    - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
    - 3) Engineer shall have no liability to Owner on account of such termination.
  - c. Notwithstanding the foregoing, this Agreement will not terminate if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the

same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

- a. By Owner effective upon Engineer's receipt of notice from Owner.

P. Effective Date of Termination: The terminating party may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

Q. Payments Upon Termination:

1. In the event of any termination Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Part 6.M.5.
2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in subparagraph Q. above, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.

R. Controlling Law

This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located.

S. Successors, Assigns, and Beneficiaries

1. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by this Paragraph the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
2. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
3. Unless expressly provided otherwise in this Agreement:



- a. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
- b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
- c. Owner agrees that the substance of the provisions of this Paragraph shall appear in the Contract Documents.

#### T. Dispute Resolution

1. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedure of Exhibit F.
2. If the parties fail to resolve a dispute through negotiation under T.1 above, then either or both may invoke the procedures of Exhibit F. If or if no dispute resolution method is specified in Exhibit F, then the parties may exercise their rights under law.

#### U. Environmental Condition of Site

1. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
2. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
3. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
4. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
5. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days notice.
6. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner," "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response,

Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

#### V. Indemnification and Waiver.

1. Indemnification by Engineer: To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting there from.

2. Waiver: To the fullest extent permitted by law, Engineer waives against Owner, and Owner's employees, officers, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

#### W. Miscellaneous Provisions

1. Notices: Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

2. Survival: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

3. Severability: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

4. Waiver: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5. Accrual of Claims: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.

6. Validity of Amendments or Changes: No change or amendment to this agreement that changes the Contract Time or Contract Sum is valid and effective until signed by the Santa Fe County Manager or Santa Fe Board of County Commissioners.

7. Price Escalation Limit for Phase II and Phase III Engineering Services: If, after completion of the Engineer's services provided throughout Phase I of construction of Owner's Project and upon Owner's resuming this Contract following suspension due to lack of appropriations or funding for construction, Engineer's prices for design services have significantly increased, through no fault of Engineer, the compensation for Engineer's services for Phase II and III may be adjusted by an amount reasonably necessary to cover any such significant price increases. In the event that Engineer continues to provide services during the construction of Phase II and III of this Project, Engineer's hourly rates as provided in

this agreement shall not be increased unless Engineer demonstrates that it has increased its hourly rates for similar engineering services provided to other governmental entities.

## PART 7 - DEFINITIONS

A. Defined Terms. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:

1. Additional Services – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
2. Agreement – This written contract for professional services between Owner and Engineer, including all Exhibits identified in Part 8 (Exhibits) and any duly executed amendments.
3. Asbestos – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
4. Basic Services – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
5. Construction Contract – The entire and integrated written agreement between Owner and Contractor concerning the Work.
6. Construction Cost – The cost to Owner of those portions of the entire Project consisting of construction Phase I, Phase II and Phase III, designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
7. Constituent of Concern – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
8. Consultants – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

9. Contract Documents – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.

10. Contractor – The entity or individual with which Owner has entered into a Construction Contract.

11. Documents – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.

12. Drawings – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

13. Effective Date – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.

14. Engineer – The individual licensed engineer or licensed entity named as such in this Agreement.

15. Hazardous Waste – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

16. Laws and Regulations: Laws or Regulations – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

17. Owner – Santa Fe County, the entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same entity that will enter into any Construction Contracts concerning the Project.

18. PCBs – Polychlorinated biphenyls.

19. Petroleum – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.

20. Project – The total construction of Phases I, II and III which the Work to be performed under the Contract Documents may be the whole, or a part.

21. Radioactive Material – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

22. Record Drawings – Drawings depicting the completed Project (Phases I), prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and

clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction of Phase I.

23. Reimbursable Expenses – The expenses incurred directly by Engineer in connection with the performing or furnishing of the survey and Basic and Additional Services for the Project.

24. Samples – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

25. Shop Drawings – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.

26. Site – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

27. Specifications – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

28. Subcontractor – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.

29. Substantial Completion – The time at which the Work (or a specified Phase thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified Phase thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified Phase thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or any Phase of the Work refer to Substantial Completion thereof.

30. Supplier – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.

31. Total Project Costs – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Total Project Costs shall include costs relative to the construction of Phase I, Phase II and Phase III.

32. Work – The entire construction of Phase I, Phase II and Phase III, or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such

construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

## **PART 8 - EXHIBITS**

Exhibit A, Engineer's Services. Part I – Basic Services Applicable to Phases I, II, and III

Exhibit B, Owner's Duties.

Exhibit C, Engineer's Compensation and Reimbursables (Appendices 1 and 2) .

Exhibit D, Notice of Acceptability of Work form.

Exhibit E, Insurance.

Exhibit F, Dispute Resolution.

Exhibit G, Limitation of Liability.

Exhibit H, Amendment to Agreement form.

## **PART 9 – TOTAL AGREEMENT**

This Agreement, (together with the Exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit H to this Agreement.

## **PART 10 – DESIGNATED REPRESENTATIVES**

A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

## **PART 11 – ENGINEER'S CERTIFICATIONS**

A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this certification:

a. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the selection process or in the Agreement execution:

b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

c. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

OWNER SANTA FE COUNTY

ENGINEER MOLZEN-CORBIN & ASSOCIATES,  
INC.,

*Liz Stefani*  
Liz Stefani, Chair  
Santa Fe Board of County Commissioners

Adelmo Archuleta, (title)


Date: 4/24/12

Date: \_\_\_\_\_

ATTEST:  
*Valerie Espinoza*  
Valerie Espinoza  
Santa Fe County Clerk

License No. \_\_\_\_\_

Address: 2701 Miles Road SE, Suite 200  
Albuquerque, NM 87106

  
Approved as to form:  
*Stephen C. Ross* 3/7/12  
Stephen C. Ross  
Santa Fe County Attorney

Department of Finance  
*Teresa Martinez* For  
Teresa Martinez, Director  
Date: 3/12/12

b. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;


c. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

OWNER SANTA FE COUNTY

ENGINEER MOLZEN-CORBIN & ASSOCIATES,  
INC.,

\_\_\_\_\_  
Liz Stefanics, Chair  
Santa Fe Board of County Commissioners

 President & Owner  
Adelmo Archuleta, (title)

Date: \_\_\_\_\_

Date: 3/12/12


ATTEST:

License No. 7078


\_\_\_\_\_  
Valerie Espinoza  
Santa Fe County Clerk

Address: 2701 Miles Road SE, Suite 200  
Albuquerque, NM 87106

Approved as to form:

  
Stephen C. Ross  
Santa Fe County Attorney

Department of Finance

  
Teresa Martinez, Director

Date: 3/12/12



## EXHIBIT A

### ENGINEER'S SERVICES - PART 1 - BASIC SERVICES APPLICABLE TO PHASES I, II AND III.

#### A. Study and Report Phase - Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for the Project and available data.
2. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B which are not part of Engineer's Basic Services.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Engineer, including but not limited to mitigating measures identified in the environmental assessment.
4. Identify and evaluate alternate solutions available to Owner and, after consultation with Owner, recommend to Owner those solutions which in Engineer's judgment meet Owner's requirements and goals for the Project. Since the completion of Owner's entire Project is subject to availability of funding, all alternate solutions shall be designed so as to provide for construction of the entire Project into a least three (3) construction phases: Phase I, Phase II, and Phase III.
5. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches, and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. For each recommended solution Engineer will provide the following, which will be separately itemized: opinion of probable Construction Cost; proposed allowances for contingencies; the estimated total costs of design, professional, and related services to be provided by Engineer and its Consultants; and, on the basis of information furnished by Owner, a summary of allowances for other items and services included within the definition of Total Project Costs.
6. Furnish at least two (2) review copies of the Report and any other deliverables to Owner within fourteen (14) calendar days of the Effective Date and review it with Owner. Within fourteen (14) calendar days of receipt, Owner shall submit to Engineer any comments regarding the Report and any other deliverables.
7. Revise the Report and any other deliverables in response to Owner's comments, as appropriate, and furnish at least two (2) copies of the revised Report and any other deliverables to the Owner within fourteen (14) calendar days of receipt of Owner's comments.
8. Engineer's services under the Study and Report Phase will be considered complete on the date when the revised Report and any other deliverables have been delivered to Owner.

B. Preliminary Design Phase (30% Completion).

1. After acceptance by Owner of the Report and any other deliverables, selection by Owner of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon written authorization from Owner, Engineer shall:
  - a. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings of the alignment, outline specifications, and written descriptions of the alignment selected by Owner.
  - b. Provide necessary field surveys and topographic and utility mapping for design purposes. Utility mapping will be based upon information obtained from utility owners.
  - c. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services. Also advise Owner of any potential challenges presented by the selected alignment that may require re-consideration or revision, including identification of arroyo and drainage crossings, right-of-ways, geotechnical features and other relevant facts and issues for Owner's consideration. Engineer shall also determine the scope of environmental and archaeological clearance and/or mitigations for Owner's consideration.

C. Preliminary Design Phase (70% Completion). After acceptance by Owner of the Report (30% Preliminary Design Phase) and any other deliverables, and indication of any specific modifications or changes in the scope, extent, character, or design requirements of Owner's Project desired by Owner, and upon written authorization from Owner, Engineer shall:

1. Prepare and complete Environmental Documents. Engineer shall prepare and finalize environmental clearance documents including a checklist for an Environmental Site Assessment (ESA), Environmental Impact Assessment (EIA), NPDES-SWPPP, Sections 401 and 404 compliance, as well as any other required environmental, cultural, and/or biological reports.
2. Prepare and complete Subsurface Investigation. Engineer shall identify any special conditions or specialized geotechnical work.
3. Prepare and complete Drainage Analysis and Design. Engineer's report at 70% completion shall include engineering designs and analysis of arroyo crossings and drainage. Engineer's analysis shall identify any issues regarding compliance with FEMA/FIRM base flood elevations and flood plain management, Engineer's recommendations for erosion/scour protection, and any details necessary for replacement of existing drainage structure that may be affected by the Project. Engineer shall consider any requirements pursuant to the Santa Fe County Flood Plain Ordinance.
4. Based on all the information and factors contained in the 70% Preliminary Design Phase documents, prepare a preliminary opinion of probable Construction Costs for Phase I, Phase II

and Phase III of Owner's entire Project, and assist Owner in collating the various cost categories which comprise Total Project Costs.

5. Furnish at least four (4) review copies of the 70% Preliminary Design Phase documents and any other deliverables to Owner within thirty (30) calendar days of authorization to proceed with this phase, and review them with Owner. Within twenty (20) calendar days of receipt, Owner shall submit to Engineer any comments regarding the 70% Preliminary Design Phase documents and any other deliverables.

6. Revise the 70% Preliminary Design Phase documents and any other deliverables in response to Owner's comments, as appropriate, and furnish to Owner at least four (4) copies of the revised 70% Preliminary Design Phase documents, revised opinion of probable Construction Cost for Phase I, Phase II and Phase III, and any other deliverables within thirty (30) calendar days after receipt of Owner's comments.

7. Engineer's services under the 70% Preliminary Design Phase will be considered complete on the date when the revised 70% Preliminary Design Phase documents, revised opinion of probable Construction Cost, and any other deliverables have been delivered to Owner.

#### D. Final Design Phase

After acceptance by Owner of the 70% Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other deliverables subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from Owner, Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Engineer's Drawings and Specifications prepared for construction of the Project as selected by Owner shall be designed for construction in three (3) phases: Phase I, Phase II and Phase II so that the project is advertised for construction bids no later than October 16, 2012.

2. Prepare, process and obtain all approvals and/or permits from all private and/or governmental authorities having jurisdiction to permit, review or approve the final design for the construction of the Project including the 401 permit and revise the Drawing and Specifications in response to directives from such authorities. Owner will assist in consultations with such authorities as necessary.

3. Advise Owner of any adjustments to the opinion of probable Construction Cost known to Engineer.

4. Coordinate and work with the Owner's Capital Projects Senior Engineer as necessary.

5. If needed by Owner, prepare and furnish bidding documents for review by Owner and assist Owner in the preparation of other related documents. Owner shall submit to Engineer any comments and, subject to the provisions of Paragraph 6.01.G, instructions for revisions.

6. If needed, revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit final copies of the bidding documents, a revised opinion

of probable Construction Cost, and any other deliverables to Owner within ten (10) calendar days after receipt of Owner's comments and instructions.

7. Engineer's services under the Final Design Phase will be considered complete on the date when the submittals required by Paragraph A1.03.A.6 have been delivered to Owner.

8. The number of prime contracts for Work designed or specified by Engineer upon which the Engineer's compensation has been established under this Agreement is one (1).

#### E. Bidding Phase.

After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

1. Assist Owner as requested in advertising for and obtaining bids or proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the bidding documents.

2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.

3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.

4. Consult with Owner as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.

5. If bidding documents require, Owner and Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders.

6. Attend the Bid opening, prepare Bid tabulation sheets, and assist Owner in evaluating Bids or proposals.

7. The Bidding Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with the prospective contractor(s).

#### F. Construction Phase

(A) After acceptance by Owner of the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by Owner to proceed, Engineer shall:

1. General Administration of Construction Contract: Consult with Owner as provided in the Construction Contract. The extent and limitations of the duties, responsibilities, and authority of Engineer as assigned in the Construction Contract shall not be modified, except as Engineer may otherwise agree in writing. All of Owner's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of Owner in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

2. Selecting Independent Testing Laboratory: Assist Owner in the selection of an independent testing laboratory to perform the testing required by this Agreement.
3. Pre-Construction Conference: Participate in a Pre-Construction Conference prior to commencement of Work at the Site.
4. Schedules: Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
5. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.
6. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
  - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Contract Documents, and Engineer shall keep Owner informed of the progress of the Work.
  - b. The purpose of Engineer's visits to at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Engineer shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish or perform the Work in accordance with the Contract Documents.
7. Defective Work: Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work (a) is defective under the standards set forth in the Contract Documents. (b) will not

produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

8. Clarifications and Interpretations; Field Orders: Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Engineer may issue field orders authorizing minor variations in the Work from the requirements of the Contract Documents.

9. Change Orders and Work Change Directives: Recommend change orders and work change directives to Owner, as appropriate, and if requested by Owner, prepare change orders and work change directives.

10. Shop Drawings and Samples: Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

11. Substitutes and "or-equal": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.

12. Inspections and Tests: Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Engineer shall be entitled to rely on the results of such tests.

13. Disagreements between Owner and Contractor: Render formal written decisions on all duly submitted issues relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution, performance, or progress of Contractor's Work; review each duly submitted Claim by Owner or Contractor, and in writing either deny such Claim in whole or in part, approve such Claim, or decline to resolve such Claim if Engineer in its discretion concludes that to do so would be inappropriate. In rendering such decisions, Engineer shall be fair and not show partiality to Owner or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

14. Applications for Payment: Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

- a. Determine the amounts that Engineer recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute Engineer's

representation to Owner, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe Contractor's Work. In the case of unit price work, Engineer's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments allowed by the Contract Documents).

b. By recommending any payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, materials, or equipment has passed to Owner free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between Owner and Contractor that might affect the amount that should be paid.

15. Contractor's Completion Documents: Receive, review, and transmit to Owner maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved, and transmit the annotated record documents which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. The extent of such review by Engineer will be limited as provided in Paragraph F.1.

16. Substantial Completion: Promptly after notice from Contractor that Contractor considers Phase I ready for its intended use, in company with Owner and Contractor, visit the Project to determine if Phase I of the Project is substantially complete. If after considering any objections of Owner, Engineer considers Phase I of the Project substantially complete, Engineer shall deliver a certificate of Substantial Completion to Owner and Contractor.

17. Final Notice of Acceptability of the Work: Conduct a final visit to the Project to determine if the completed Work of Contractor (for Phase I) is acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice in the form attached hereto as Exhibit D that the Work is acceptable to the best of Engineer's knowledge, information, and belief and based on the extent of the services provided by Engineer under this Agreement.

(B) Duration of Construction Phase: The Construction Phase for Phase I of the Project will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon final payment to Contractor. If the Project involves more than one prime contract, then Construction Phase services may be rendered at different times in respect to the separate contracts. Subject to the provisions of Part 3, Engineer shall be entitled to an increase in compensation in conformity with Part 3.B.3. if Construction Phase services are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

(C) Limitation of Responsibilities: Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. Engineer shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

#### G. Post-Construction Phase

1. Upon written authorization from Owner during the Post-Construction Phase Engineer shall:

- a. Together with Owner, visit the Project to observe any apparent defects in Phase I of the Work, assist Owner in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.
- b. Together with Owner or Owner's representative, visit the Project within one month before the end of the correction period to ascertain whether any portion of the Work is subject to correction.
- c. Coordinate the completion of as-built drawings for the Project, to be signed and stamped by a land surveyor licensed in the State of New Mexico.

2. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve (12) months after the commencement of the Construction Contract's correction period.

#### **PART 2 – ADDITIONAL SERVICES REQUIRING OWNER'S PRIOR WRITTEN AUTHORIZATION (NOT PART OF OR INCLUDED IN BASIC SERVICES)**

A. Only if authorized in writing and in advance by Owner, Engineer shall furnish or obtain from others Additional Services of the types listed below. As of the execution of this Agreement Owner has not authorized the Engineer's performance of any of the Additional Services listed below. Authorization to proceed with these Additional Services shall only be through an Owner-approved amendment to this Agreement.

1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such



statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by Owner or others.
3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.
4. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions..
5. Services required as a result of Owner's providing incomplete or incorrect Project information to Engineer.
6. Providing renderings or models for Owner's use.
7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of financial feasibility and cash flow studies, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting Owner in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by Owner.
8. Furnishing services of Consultants for other than Basic Services.
9. Services attributable to more prime construction contracts than specified in Paragraph D.A.8.
10. Services during out-of-town travel required of Engineer other than for visits to the Site or Owner's office.
11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by Owner; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
12. Preparing additional Bidding Documents or Contract Documents for construction of Phases II and III or prices requested by Owner for the Work or a portion thereof.
13. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment or services.

14. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Basis Services, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
15. Providing additional Construction Phase services beyond the original date for completion of Phase I of the Project and readiness for final payment of Contractor.
16. Providing assistance in responding to the presence of any Constituent of Concern at the Site, in compliance with current Laws and Regulations.
17. Preparing Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor, and furnishing such Record Drawings to Owner.
18. Preparation of operation and maintenance manuals.
19. Preparing to serve or serving as a consultant or witness for Owner in any litigation or other dispute resolution process related to the Project.
20. Providing more extensive services required to enable Engineer to issue notices or certifications requested by Owner.
21. Assistance in connection with the adjusting of Project equipment and systems.
22. Assistance to Owner in training Owner's staff to operate and maintain Project equipment and systems.
23. Assistance to Owner in developing procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related record-keeping.
24. Overtime work requiring higher than regular rates.
25. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

**B. Additional Services Not Requiring Owner's Written Authorization**

1. Engineer shall advise Owner in advance that Engineer will commence to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from Owner. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice from Owner.
  - a. Services in connection with recommendation for work change directives or change orders to reflect changes requested by Owner. No change order amending the Contract Time or Contract Sum is valid and effective until approved by the Santa Fe County Manager or the Santa Fe Board of County Commissioners.
  - b. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; services after

the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.

c. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.

d. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work (advance notice not required), (2) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, or (6) default by Contractor.

e. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by Owner prior to Substantial Completion.

f. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.

g. Services during the Construction Phase of Phase I rendered after the original date for completion of Phase I of the Work referred to in A1.05.B.

h. Reviewing a Shop Drawing more than three times, as a result of repeated inadequate submissions by Contractor.

i. While at the Site, compliance by Engineer and its staff with those terms of Owner's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, state, or local safety authorities for similar construction sites.

## EXHIBIT B

### Owner's Duties

A. In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall:

1. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
2. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
3. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data obtained by Owner from NMDOT, US Forest Service, Bureau of Land Management or private land owners may include the following:
  - a. Property descriptions.
  - b. Zoning, deed, and other land use restrictions.
  - c. Property, boundary, easements, right-of-way, and other special surveys or data, including establishing relevant reference points.
  - d. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
  - e. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas. Owner will make available in electronic form copies of existing environmental documents, surveys, analyses and other relevant documents that are in Owner's possession.
  - f. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
4. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.
5. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

6. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
7. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
8. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
9. Recognizing and acknowledging that Engineer's services and expertise do not include the following services:
  - a. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
  - b. Legal services with regard to issues pertaining to the Project as Owner requires, Contractor raises, or Engineer reasonably requests.
  - c. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
10. Place and pay for advertisement for Bids in appropriate publications.
11. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
12. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
13. If Owner designates a construction manager or an individual or entity other than, or in addition to Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.
14. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
15. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.

16. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.

17. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.

18. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.

## EXHIBIT C

### Engineer's Compensation

A. Owner shall pay Engineer for Basic Services as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer's personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer's subconsultants' charges, if any.

2. Engineer's Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.

3. The total compensation for services under this Agreement is estimated to be Four Hundred Eleven Thousand Three Hundred Sixty Eight dollars and Ninety-Six cents (\$ 411,368.96) based on the following estimated distribution of compensation:

a. Study and Report Phase \$ 25,660.

Reimbursable \$ 992.80

b. Basic Design Services – General Design Services for **Phases I, II and III.**

Design Services \$ 46,920.

Survey \$ 23,757.65

Reimbursable \$ 5,092.

c. Preliminary Design – **Phase I**

30% Preliminary Design Phase \$ 21,990.

70% Preliminary Design Phase \$ 55,857.50

Final Design Phase \$ 22,165.

Bidding or Negotiating Phase \$ 4,010.

Construction Phase (7 months) \$ 12,310.

Post-Construction Phase \$ 10,630.

Subconsultants \$ 9,020.

d. Design – **Phase II**

30% Preliminary Design Phase \$ 12,292.50

70% Preliminary Design Phase \$ 36,640.

Final Design Phase	\$ 18,045.
Subconsultants	\$ 4,400.
<b>e. Design – Phase III</b>	
30% Preliminary Design Phase	\$ 3,025.
70% Preliminary Design Phase	\$ 9,915.
Final Design Phase	\$ 5,912.50
<b>f. Additional Basic Services</b>	
Geotechnical Investigation	\$ 24,200.
Environmental Services	\$ 11,834.01
Drainage Analysis/Design, 404 Certification, 401 Permit, NPDES- SWPPP	\$ 35,000.
Property Easements Coordination	\$ 2,500.
Prepare, Process, obtain Approvals/Permits From Private/Governmental Authorities	\$2,500.
NMDOT ROW Permits	\$ 6,700.
<b>Total Services:</b>	<b>\$ 411,368.96</b>

4. Pursuant to an amendment approved by the Owner, Engineer may alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner.

5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted above incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's subconsultants' charges.

6. The amounts billed for Engineer's services under this Paragraph will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.

#### **B. Compensation For Reimbursable Expenses**

1. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix I to this Exhibit C.



2. Reimbursable Expenses include the following categories: Engineer's In-House copies (11 X 17 and 24 X 36); In-House color copies; mileage @ 55 per mile; Printing Specifications, meals during Study and Report Phase and 30% through Final Design Phase for Phases I, II and III. In addition, if authorized in advance by Owner, Reimbursable Expenses may include other expenses.

3. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project as provided above.

#### C. Other Provisions

1. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer.

2. Factors. The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs

3. Compensation Amounts:

a. When compensation amounts have been stated herein and it subsequently become apparent to Engineer that the compensation amount will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services, agree to such compensation exceeding the stated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed the stated compensation amount when such services are completed.

b. To the extent necessary to verify Engineer's charges and upon Owner's request, Engineer shall make copies of such records available to Owner at no cost to Owner.

## Appendix 1 to EXHIBIT C

### Reimburseables

#### Survey reimburseables

In-House copies	.10 per unit	\$ 3.50
Mileage	.55 per unit	\$ 1,404.15
Meals	\$39.00/ per day per person	\$ 390.00

#### Reimburseables for Design Phases

##### Preliminary (30%)

In-House copies	.10 per unit	\$ 300.00
In-House Color Copies (11 X 17)	.10 per unit	\$ 75.00
Mileage	.55 per unit	\$ 333.00
Meals		\$ 200.00

##### Pre-final (70%)

In-House copies	.10 per unit	\$ 300.00
Printing Specifications	.10 per unit	\$ 500.00
In-House (11 X 17)	.10 per unit	\$ 100.00
In-House (24 X 36)	\$2.00 per unit	\$ 1,200.00
Mileage	.55 per unit	\$ 222.00
Meals		\$ 100.00

##### Final (100%)

In-House copies	.10 per unit	\$ 100.00
Printing Specifications	.10 per unit	\$ 500.00
In-House (11 X 17)	.10 per unit	\$ 40.00
In-House (24 X 36)	\$2.00 per unit	\$ 800.00
Mileage	.55 per mile	\$ 222.00
Meals		\$ 100.00

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Total reimburseables: \$6,889.65

## Appendix 2 to EXHIBIT C

### A. Hourly Rates:

1. The Hourly Rates stated below include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. Hourly rates for services performed on or after the date of the Agreement are:

GPS Survey Crew	\$165.00/hour
Survey Tech	70.00/hour
Civil Sr. Engineer	\$150.00/hour
Civil Prof. Engineer	\$105.00/hour
Civil Eng. Design Specialist	\$100.00/hour
Electrical Proj. Engineer	\$130.00/hour
Electrical Sr. Engineer	\$ 95.00/hour
Design Tech	
Engineer Design Specialist	\$105.00/hour
Water Resources Principle Engineer	\$160.00/hour
Water Resources Sr. Eng.	\$155.00/hour
Water Resources Proj. Eng.	\$130.00/hour
Water Resources Sr. Design Specialist	\$120.00/hour
Water Resources Eng. Design Specialist	\$105.00/hour
Water Resources TDA	\$ 75.00/hour
Admin. Aide 2	\$ 45.00/hour
Admin Support	\$ 55.00/hour
Architectural Principle	\$160.00/hour
Architectural Designer	\$ 80.00/hour

**EXHIBIT D**

CONTRACT 2012-0055-UT/MS

(Notice of Acceptability form)

OWNER SANTA FE COUNTY

CONTRACTOR \_\_\_\_\_

EFFECTIVE DATE OF THE CONSTRUCTION CONTRACT:

ENGINEER:

Date of Notice to Proceed: \_\_\_\_\_

To: \_\_\_\_\_  
Owner

And To: \_\_\_\_\_  
Contractor

From: \_\_\_\_\_  
Engineer

The Engineer hereby gives notice to the above Owner and Contractor that the completed Work furnished and performed by Contractor under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents and Agreement 2012-0055-UT/MS.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

The Notice of Acceptability of Work ("Notice") is expressly made subject to the following terms and conditions to which all those who receive said Notice and rely thereon agree:

1. This Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.

2. This Notice reflects and is an expression of the professional judgment of Engineer.
3. This Notice is given as to the best of Engineer's knowledge, information, and belief as of the Notice Date.
4. This Notice is based entirely on and expressly limited by the scope of services Engineer has been employed by Owner to perform or furnish during construction of the Project (including observation of the Contractor's work) under Engineer's Agreement with Santa Fe County and under the Construction Contract referred to in this Notice, and applies only to facts that are within Engineer's knowledge or could reasonably have been ascertained by Engineer as a result of carrying out the responsibilities specifically assigned to Engineer under such Agreement and Construction Contract.
5. This Notice is not a guarantee or warranty of Contractor's performance under the Construction Contract referred to in this Notice, nor an assumption of responsibility for any failure of Contractor to furnish and perform the Work thereunder in accordance with the Contract Documents.

## EXHIBIT E

### Insurance

- A. The Engineer shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Engineer from claims set forth below which may arise out of or result from the Engineer's operations under the Contract and for which the Engineer may be legally liable, whether such operations be by the Engineer, Engineer's consultants or subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
1. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
  2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Engineer's employees;
  3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Engineer's employees;
  4. Claims for damages insured by usual personal injury liability coverage;
  5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting there from;
  6. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
  7. Claims for bodily injury or property damage arising out of completed operations;
  8. Claims involving contractual liability insurance applicable to the Engineer's obligations under Part 6.V.1 of the Agreement.

The insurance required by this section shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

- B. The limits for Workers' Compensation and Employer's Liability insurance shall be as follows:
1. Workers' Compensation:
    - a. State: Statutory
    - b. Applicable Federal (e.g. Longshoremen's): Statutory
  2. Employer's Liability: \$500,000 per Accident  
\$500,000 Disease, Policy Limit  
\$500,000 Disease, Each Employee
- C. The limits for Commercial General Liability Policy, including coverage for Premises-Operations, Independent Contractors' Protective, Products-Completed Operations, Contractual Liability, Personal Injury and Broad Form Property Damage (including coverage for Explosion, Collapse and Underground hazards), shall be as follows:
- \$1,050,000 Each Occurrence
  - \$2,100,000 General Aggregate
  - \$2,100,000 Personal and Advertising Injury
  - \$2,100,000 Products-Completed Operations Aggregate
1. The policy shall be endorsed to have the General Aggregate apply to this Project only.

2. The Contractual Liability insurance shall include coverage sufficient to meet the obligations in Part 6.V.1 of the Agreement.
  3. Products Completed Operations insurance shall be maintained for a minimum period of at least one (1) year after final payment.
- D. Automobile Liability insurance (owned, non-owned and hired vehicles) for bodily injury and property damage shall be \$2,000,000 Each Accident.
  - E. The Offeror will be required to carry professional liability (errors and omissions) insurance in the amount of \$2,000,000.
  - F. Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this section shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Engineer with reasonable promptness in accordance with the Engineer's information and belief.
  - G. 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 Engineer shall increase the maximum limits of any insurance required herein

## EXHIBIT F

### **Dispute Resolution**

---

Santa Fe County and Engineer agree that they will resolve disputes first through mediation if required by the Public Works Mediation Act, Section 13-4C-1 et seq. NMSA 1978. If mediation is unsuccessful in resolving a dispute then the parties agree to resolve such dispute(s) through litigation in State District Court, First Judicial District, Santa Fe, New Mexico.



## **EXHIBIT G**

### **Limitation of Liability.**

1. **Exclusion of Special, Incidental, Indirect, and Consequential Damages:** To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, consistent with the terms of Part 6.V.1 of the Agreement, the Owner, its employees, officers, consultants shall not be liable to Engineer or anyone claiming by, through, or under Engineer for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of Owner or Owner's employees, officers, agents or Consultants.

## EXHIBIT H

### AMENDMENT TO AGREEMENT form

Amendment No. \_\_\_\_\_

1. Background:

- a. Effective Date of Owner-Engineer Agreement: \_\_\_\_\_
- b. Owner: Santa Fe County
- c. Engineer: \_\_\_\_\_
- d. Project: Contract 2012-0055-UT/MS

2. Amendment:

[Describe amendment or modification in detail]

- 5. a. Original Agreement amount: \$ \_\_\_\_\_
- b. Total amount for prior amendments: \$ \_\_\_\_\_
- c. This amendment amount: \$ \_\_\_\_\_
- d. Agreement amount after this amendment: \$ \_\_\_\_\_

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is the date this Amendment is approved by Santa Fe County.

SANTA FE COUNTY:

ENGINEER:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

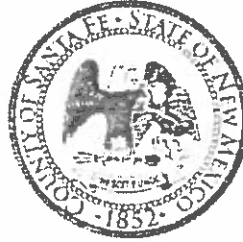




**Henry P. Roybal**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

## ***MEMORANDUM***

**Date:** *August 31, 2016*

**To:** *Santa Fe County Board of County Commissioners*

**From:** *Bill Taylor, Procurement Manager*

**Via:** *Katherine Miller, County Manager*  
*Jeffrey Trujillo, ASD Director*  
*David Sperling, Fire Chief*

**ITEM AND ISSUE:** BCC Meeting September 13, 2016  
**Request Approval of Indefinite Quantity Price Agreement No. 2017-0023-FD/IC between Santa Fe County and ROI Fire and Ballistics Equipment Incorporated for MSA Safety Equipment for the Santa Fe County Fire Department and Authorization for the County Manager to Sign the Related Purchase Orders. (Bill Taylor, Purchasing Division)**

---

***Issue:***

The Purchasing Division requests approval of indefinite quantity Price Agreement No. 2017-0023-FD/IC with ROI Fire and Ballistics Equipment, Inc. to provide MSA Safety Equipment for the Santa Fe County Fire Department. The contract term is one (1) year with the option to renew for an additional three years on an annual basis not to exceed four years in duration.

***Background:***

Santa Fe County issued Invitation for Bid (IFB) No. 2017-0023-FD/IC to Mine Safety Appliances (MSA) Distributors on July 17, 2016. The solicitation was advertised in the Albuquerque Journal. There are only two MSA authorized dealers available for the Santa Fe County region. The only bid received was from ROI Fire and Ballistics Equipment, Inc. from Lakewood, CO. The bid was reviewed by the Purchasing staff and was deemed a responsive bid.

***Action Requested:***

The Purchasing Division requests approval of Price Agreement No. 2017-0023-FD/IC with ROI Fire and Ballistics Equipment, Inc. to provide MSA Safety Equipment for the Santa Fe County Fire Department. and grant signature authority to the County Manager to sign the purchase orders.



**PRICE AGREEMENT  
WITH ROI FIRE & BALLISTICS EQUIPMENT, INC.  
FOR MSA SAFETY EQUIPMENT FOR THE  
SANTA FE COUNTY FIRE DEPARTMENT**

**THIS AGREEMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the **County of Santa Fe**, hereinafter referred to as "the County," and **ROI Fire & Ballistics Equipment, Inc.**, hereinafter referred to as "the Contractor."

**WHEREAS**, in accordance with Section 13-1-103 NMSA 1978, the County issued an invitation for bids under IFB No. 2017-0023-FD/IC for an indefinite quantity of MSA Safety Equipment for its Fire Department;

**WHEREAS**, pursuant to NMSA 1978, § 13-1-63, this Agreement is determined to be an Indefinite Quantity Agreement;

**WHEREAS**, the County desires to engage the Contractor to provide the self-contained breathing apparatus (SCBA) and other safety products at specified discounted prices from the Manufacturer's Master Price List (Catalog).

**NOW, THEREFORE, THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:**

**1. DEFINITIONS**

- A. "County" shall mean the County of Santa Fe, New Mexico.
- B. "Using Department or Department" shall mean the Santa Fe County Fire Department.
- C. "Purchase Order" shall mean a fully executed Purchase Document issued by the County Purchasing Department that specifies the items and services to be provided by the Contractor.
- D. "Price Agreement" means this indefinite quantity Price Agreement which requires the Contractor to provide MSA Safety Equipment and SCBA to the Using Department which issues a Purchase Order.
- E. "Price" means the discounted prices off of list prices as shown on the Master Price List for MSA Safety Equipment and SCBA's as indicated in Attachment A.

**2. GOODS TO BE PROVIDED**

- A. **Purchase.** Attachment A of this Price Agreement indicates the prices for the Contractor's goods. Attachment A also indicates any specifications required for the goods that are subject of this Price Agreement.
- B. **Items Listed on Attachment A.** The County may issue Purchase Orders for the purchase of the goods listed on Attachment A. Any order by the County must be an item described on Attachment A. All orders issued hereunder must bear both an order number and the number of this Price Agreement 2017-0023-FD/IC.

- C. **Quantities.** It is understood that this is an indefinite quantity Price Agreement and the County may purchase any quantity of the goods listed on Attachment A. No guarantee or warranty is made or implied that any order for any definite quantity of goods will be issued under this Price Agreement. The Contractor is required to accept a Purchase Order and furnish the item(s).
- D. **Specifications.** The goods furnished under this Price Agreement shall meet or exceed the specifications provided in the Information for Bidders, IFB# 2017-0023-FD/IC including all Addenda. Orders issued pursuant to this Agreement must show the applicable Price Agreement good(s) and price(s).
- E. **Delivery and Billing Instructions.**
  - 1. The Contractor shall deliver the goods in accordance with the Using Department's instructions. The Contractor shall also deliver, with the goods ordered, an invoice listing the order number and the Price Agreement number.
  - 2. Whenever, the Department does not accept any item and returns it to the Contractor, all related documentation furnished by the Contractor shall also be returned.
  - 3. The Department will inform the Contractor within five business days that an item is unacceptable by the Using Department.
  - 4. Prices listed in Attachment A, for each item, shall be the fixed prices and rates for the items.

3. **PAYMENT.** All payments under this Price Agreement are subject to the following provisions:

- A. **Inspection.** Final inspection and acceptance of a deliverable shall be made by the Using Department.
- B. **Acceptance.** In accordance with NMSA 1978, Section 13-1-158, the Using Department shall determine if the items meet specifications and will accept the items if they meet specifications. No payment shall be made for any item until the item is accepted in writing by the Using Department. Unless otherwise agreed upon, between the Using Department and the Contractor within thirty (30) days from the delivery and receipt of items, the Using Department shall issue a written certification of complete or partial acceptance or rejection of any item. Unless the Using Department gives notice of partial acceptance or rejection within the time specified in Paragraph 2.E.3 above, the items will be deemed to have been accepted.
- C. **Issuance of Orders.** Only written, signed and properly executed Purchase Orders are valid under this Price Agreement.
- D. **Payment.** County shall pay Contractor on an invoice received from Contractor within thirty (30) days from the date the County approves the invoice.
- E. **Taxes.** Applicable gross receipts taxes or local option tax(es) shall be included on each invoice and shown as a separate item on each invoice. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and must be reported under the Contractor's federal and county tax identification number(s). If the Using Department is exempt from the New Mexico gross receipts tax or local option taxes for the transaction, the Using Department shall provide the Contractor written evidence of such exemption(s).



**4. TERM OF THIS AGREEMENT.** This Price Agreement shall not become effective until approved in writing by all the parties as shown by their signatures below. The term of this Agreement shall be one (1) year from the Effective Date with the option to renew on the same terms and conditions annually not to exceed a total of four (4) years

**5. CANCELLATION.**

- A. The County reserves the right to cancel without cost to the County all or any part of any order placed under this Price Agreement if the goods fail to meet the requirements of this Price Agreement.
- B. The failure of the Contractor to perform its obligations under this Price Agreement shall constitute a default of this Price Agreement.
- C. The Contractor may be excused from performance if the Contractor's failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor, unless the County shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.
- D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the County or Federal government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.
- E. The County may cancel all, or any part, of any order without cost to the County if the Contractor fails to meet material provisions of the order and the Contractor shall be liable for any excess costs incurred by the County that is associated with such default.

**6. TERMINATION.**

- A. **For Convenience.** Consistent with applicable New Mexico laws, this Price Agreement may be terminated by the County, without penalty, at any time prior to the Termination date of this Price Agreement. County will provide at least twenty (20) days prior written notice to the Contractor of the date of termination. Notice of Termination of this Price Agreement shall not affect any outstanding order(s) issued under this Price Agreement prior to the effective date of termination for convenience by the County.
- B. **For Cause.** Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If, within thirty (30) days, after receipt of a written notice, the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, begin and proceed in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

**7. AMENDMENT.** Except for amendment affecting price(s), this Price Agreement may be amended by mutual agreement of the County and the Contractor upon written notice by either party to the other. Any such amendment shall be in writing and signed by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the County, prior to the effective date of the amendment.

**8. ASSIGNMENT.** Contractor shall not sell, assign, pledge, transfer, or otherwise convey any of its rights or interests in this Price Agreement.

**9. NON-COLLUSION.** In signing this Price Agreement, the Contractor certifies it has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with its offer and this Price Agreement.

**10. RECORDS.** During the term of this Price Agreement and for three (3) years thereafter, the Contractor shall maintain detailed records pertaining to the goods provided. These records shall be subject to inspection by the Department, the County and State Auditor and other appropriate County authorities. The County shall have the right to audit billings both before and after payment. Payment under this Price Agreement shall not foreclose the right of the Department to recover excessive or illegal payments.

**11. APPROPRIATIONS.** The terms of this Price Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Price Agreement. If sufficient appropriations and authorization are not made, this Price Agreement, and any orders placed under it, shall terminate upon written notice being given to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

**12. CONFLICT OF INTEREST.** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with any performance required under this Price Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosure Act.

**13. APPROVAL OF CONTRACTOR'S REPRESENTATIVES.** The County reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the County, serving the needs of the County adequately.

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

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

**16. INDEMNIFICATION.** The Contractor shall hold the County and its Departments, agencies and employees harmless and shall indemnify the County and its agencies and employees against any and all claims, suits, actions, liabilities and cost of any kind, including

attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees, or sub-contractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the Department, its officers or employees.

**17. THIRD PARTY BENEFICIARY.** This Price Agreement was not intended to and does not create any rights in any persons not a party hereto.

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

**19. INSURANCE.**

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Price 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 Price Agreement is an insured contract. Santa Fe County shall be named an additional insured on the policy.
- C. Worker's Compensation Insurance. The Contractor shall comply with the provisions of the Worker's Compensation Act.
- D. Increased Limits. If, during the life of this Price 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.

**20. APPLICABLE LAW.** This Price Agreement shall be governed by the laws of the State of New Mexico.

**21. CHOICE OF LAW.** This Price Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. The parties agree that the exclusive forum for any litigation between them arising out of or related to this Price Agreement shall be in the First Judicial District Court of New Mexico, located in Santa Fe County, New Mexico.

**22. INVALID TERM OR CONDITION/SEVERABILITY.** The provisions of this Price Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Price Agreement is determined to be invalid by a court or department or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of the Price Agreement, which can be given effect without the invalid provision.

**23. ENFORCEMENT OF AGREEMENT.** A party's failure to require strict performance of any provision of this Price Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by party or any of its rights under this Price Agreement shall be effective unless express and in writing, and not effective waiver by a party of any of its right shall be effective to waive any other rights.

**24. SURVIVAL.** The Provisions of the following listed paragraphs shall survive termination of this Price Agreement: Delivery & Billing Instructions; Records; Indemnification; Applicable Law; and Survival.

**25. NOTICES.** Either party may give written notice to the other party in accordance with the terms of this Price Agreement. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

**To the County:**

Santa Fe County  
102 Grant Avenue  
PO Box 276  
Santa Fe, NM 87504-0276

**To the Contractor:**

ROI Fire & Ballistics Equipment, Inc.  
10373 West 6<sup>th</sup> Avenue  
Lakewood, CO 80215

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Price Agreement. The carrier for mail delivery and notices shall be the agent of the sender.

**26. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS.** The Contractor hereby irrevocably appoints, New Mexico Fire Safety & Welding Co. Attention. Scott Lelesch, a New Mexico business located at, 5980 Hwy 54 S. Unit 3299, Alamogordo, NM 88311, as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Price Agreement as of the date of execution by:

**SANTA FE COUNTY:**

\_\_\_\_\_  
Miguel M. Chavez, Chair  
Santa Fe County Board of County Commissioners

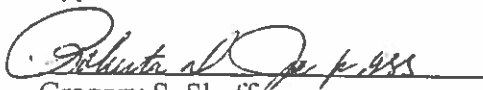
\_\_\_\_\_  
Date

**ATTESTATION:**

\_\_\_\_\_  
Geraldine Salazar,  
Santa Fe County Clerk

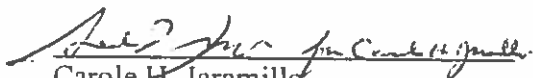
\_\_\_\_\_  
Date

Approved as to form:

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

8-16-16  
\_\_\_\_\_  
Date

Finance Department Approval:

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

8/17/16  
\_\_\_\_\_  
Date

**ROI Fire & Ballistics Equipment, Inc.:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

**ATTACHMENT A**

**All items are Mine Safety Appliance (MSA) safety products**

Item	% OFF List Price of Master Price List
SCBA, Complete Units	38%
Thermal Imaging Cameras	44%
All Other MSA Safety Products (not to be included)	Cairns Helmets 39% Portable Gas Detectors & parts 26% SCBA Repair parts 26%



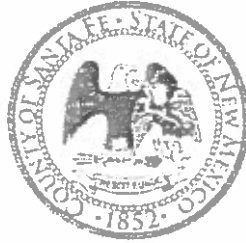




Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## **MEMORANDUM**

**DATE:** *August 31, 2016*

**TO:** *Board of County Commissioners*

**FROM:** *Bill Taylor, Procurement Manager, CPO*

**VIA:** *Katherine Miller, County Manager*  
*Jeffery Trujillo, ASD Director*  
*Pablo Sedillo, Public Safety Director*

**ITEM AND ISSUE: BCC Meeting September 13, 2016**

**Request Approval of Amendment No. 2 to Indefinite Quantity Price Agreement No. 2014-0297-B-CORR/IC between Santa Fe County and Bob Barker Company Incorporated for Inmate Clothing, Hygiene, Linen & Mattresses, Extending the Term an Additional Year and Authorization for the County Manager to Sign the Related Purchase Orders. (Bill Taylor, Purchasing Division)**

**SUMMARY:**

The Purchasing Division and the Corrections Department are requesting BCC approval of Amendment No. 2 to Price Agreement No. 2014-0296-B-CORR/IC with Bob Barker Company Inc. for inmate clothing, hygiene products, linen and mattresses.

**BACKGROUND:**

In August, 2014, Santa Fe County entered into an indefinite quantity Price Agreement No. 2014-0296-B-CORR/IC with fixed pricing for all items with Bob Barker Company Inc. for inmate clothing, hygiene products, linen and mattresses for an initial term of 2 years. The contract was originally signed by the County Manager for the initial two year term of the contract because the total amount budgeted for this contract by the Corrections Department was below her signature authority. The Corrections Department would like to exercise the option to renew the contract for an additional one year term, however the total contract amount that may be expended, including this Amendment No. 2, may exceed the County Managers signature authority. Therefore, the Purchasing Department requests approval from the BCC for Amendment No. 2 to Price Agreement No. 2014-0296-B-CORR/IC to extend the price agreement an additional year.

**ACTION REQUESTED:**

The Purchasing Division and the Corrections Department are requesting BCC approval of Amendment No. 2 to Price Agreement No. 2014-0296-B-CORR/IC with Bob Barker Company, Inc. for inmate clothing, hygiene products, linen and mattresses extending the Agreement for an additional year and authorization for the County Manager to sign the related purchase orders.

**AMENDMENT NO. 2 TO PRICE AGREEMENT  
WITH BOB BARKER COMPANY, INC. FOR  
INMATE CLOTHING, HYGIENE, LINEN & MATTRESSES FOR SANTA FE  
COUNTY CORRECTIONS DEPARTMENT**

**THIS AMENDMENT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2016, by and between Santa Fe County, hereinafter referred to as "County", a New Mexico political subdivision, and Bob Barker Company, Inc., hereafter referred to as "the Contractor."

**WHEREAS**, in accordance with Section 13-1-103 through Section 13-1-110 NMSA 1978, the County issued Invitation for Bid (IFB) No. 2014-0297-CORR/IC to purchase inmate clothing, hygiene, linens and mattresses for the Corrections Department; and

**WHEREAS**, on August 20, 2014 the County and Contractor entered into Price Agreement No. 2014-0297-CORR/IC (the Agreement) for the purchase of inmate clothing, hygiene, linens and mattresses for the Corrections Department; and

**WHEREAS**, by Amendment No. 1 to the Agreement the term was extended to September 20, 2016, and Exhibit A to the Agreement was replaced; and

**WHEREAS**, Article 7 (Amendment) of the Agreement allows the parties to amend the Agreement by an instrument in writing executed by the parties; and

**WHEREAS**, the County wishes to continue to benefit from the Contractor's services beyond September 20, 2016; and

**WHEREAS**, the parties agree to amend the Agreement to extend the term of the Agreement from September 20, 2016 to August 20, 2017.

**NOW THEREFORE**, the parties agree as follows:

1. Article 4 (Term) of the Agreement, a subparagraph "c" is inserted to read as follows:

c. By Amendment No. 2, the term of this Agreement is extended from September 20, 2016 to August 20, 2017.

2. All other provisions of Agreement No. 2014-0297-B-CORR/IC not specifically amended or modified by Amendment No. 1 and this Amendment No. 2, shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have duly executed this Amendment No. 2 to this Price Agreement 2014-0297-B-CORR/IC as of the date of last signature below.


SANTA FE COUNTY:

Miguel M. Chavez, Chair  
Santa Fe County Board of County Commissioners

ATTESTATION:


Geraldine Salazar,  
Santa Fe County Clerk

Approved as to form:

  
Gregory S. Shaffer  
Santa Fe County Attorney

8-19-16  
Date

Finance Department:

  
Carole H. Jaramillo  
Finance Director

8/19/16  
Date

CONTRACTOR:



8/19/16  
Date

By: Denise McCutcheon  
(Print Name)

As: Contract Specialist  
(Print Title)

**AMENDMENT NO. 1 TO PRICE AGREEMENT  
WITH BOB BARKER COMPANY, INC. FOR  
INMATE CLOTHING, HYGIENE, LINEN & MATTRESSES FOR SANTA FE  
COUNTY CORRECTIONS DEPARTMENT**

THIS AMENDMENT is made and entered into this 19<sup>th</sup> day of August 2016, by and between Santa Fe County, hereinafter referred to as "County", a New Mexico political subdivision, and Bob Barker Company, Inc., hereafter referred to as the "Contractor."

WHEREAS, in accordance with Section 13-1-103 through Section 13-1-110 NMSA 1978, the County issued Invitation for Bid (IFB) No. 2014-0297-CORR/IC to purchase inmate clothing, hygiene, linens and mattresses for the Corrections Department; and

WHEREAS, on August 20, 2014 the County and Contractor entered into Price Agreement No. 2014-0297-CORR/IC (the Agreement) for the purchase of inmate clothing, hygiene, linens and mattresses for the Corrections Department; and

WHEREAS, Article 7 (Amendment) of the Agreement allows the parties to amend the Agreement by an instrument in writing executed by the parties hereto; and

WHEREAS, the County wishes to amend the Agreement to extend the term of the Agreement from August 20, 2016 to September 20, 2016 and replace Exhibit A to the Agreement; and

WHEREAS, both parties are agreeable to this Amendment.

NOW THEREFORE, the parties agree to amend the Agreement as follows:

1. Article 4 (Term of this Agreement) a new subparagraph "b" is inserted to read as follows:
  - b. By Amendment No. 2, the term of this Agreement is extended from August 20, 2016 to September 20, 2016.
2. The Exhibit A attached to the Agreement is replaced in its entirety with the attached Exhibit A (revised).
3. All other provisions of Agreement No. 2014-0297-B-CORR/IC not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.


IN WITNESS WHEREOF, the parties have duly executed this Amendment No. 1 to this Price Agreement 2014-0297-B-CORR/IC as of the date first written above.

SANTA FE COUNTY:

  
Katherine Miller  
Santa Fe County Manager

8.19.16  
Date

Approved as to form:

  
Gregory S. Shaffer  
Santa Fe County Attorney

8-19-16  
Date

Finance Department:

  
Carole H. Jaramillo  
Finance Director

8/19/16  
Date

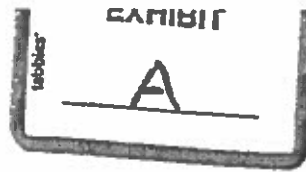
CONTRACTOR:

  
\_\_\_\_\_

8/19/16  
Date

By: Denise Morales  
(Print Name)

Its: Contract Specialist  
(Print Title)



Santa Fe County  
Administrative Services Department  
142 W. Palace Ave.  
2<sup>nd</sup> Floor  
Santa Fe, NM 87501

**IFB #2014-0297-CORR/IC**

Please offer your best price, for each item as outline below. The Bidders shall complete the following bid sheet in full, for Bid No. 2014-0297-CORR/IC, including signature at the bottom as stated. Be advised that award may be made without discussion with Bidders on offers received. Offers will be accepted until 2:00 pm on the bid due date specified. Samples of all items with the exception of mattresses must be included with the bid. For mattresses, manufacture specification sheets must be supplied.

Item	Description	Brand & Quantity	Size	List Price Before Discount	% Discount Offered	Net Price Per Item After Discount
1	<b>T-SHIRTS - Unisex</b> *50% Cotton/50% Polyester *Must be crewneck *Color - must be white *Short Sleeve * Fruit of the Loom or equivalent	Brand Name Offered: Various ZBTSWH Estimated # of purchases per year: <u>25 dozen</u>	Small	37.56	42-48%	19.44
			Medium	37.56	42-48%	19.44
			Large	37.56	42-48%	19.44
			X-Large	37.56	42-48%	19.44
			2X-Large	54.84	42-48%	31.44
			3X-Large	54.84	42-48%	31.44
2	<b>MEN'S BOXERS 40%</b> *50% Cotton/50% Polyester *Color - must be white *Fruit of the Loom or equivalent	Brand Name Offered: Bob Barker EBXLSQ Estimated # of purchases per year: <u>2,500 dozen</u>	Small	19.72	30-40%	11.90
			Medium	19.72	30-40%	12.25
			Large	19.72	30-40%	12.90
			X-Large	19.72	30-40%	13.90
			2X-Large	23.06	30-40%	15.68
			3X-Large	23.06	30-40%	16.22
3	<b>WOMEN'S PANTIES</b> *100% Cotton blend *Color - must be white *Hanes brand or equivalent	Brand Name Offered: Bob Barker ELBLCTN Estimated # of purchases per year: <u>860 dozen</u>	5	13.34	52-59%	5.74
			6	13.34	52-59%	5.74
			7	13.34	52-59%	5.74
			8	13.34	52-59%	6.22
			9	13.34	52-59%	7.05
			10	17.46	52-59%	7.05
			12	17.46	52-59%	7.05
			14	17.46	52-59%	8.32

Bob Barker Company, Inc.

4	<b>BRAS</b> <del>*50% Cotton/50% Polyester blend</del> *Must be pull over, without snaps, hook and eyes and no under wire *Color - must be white *Playtex brand or equivalent  15% Cotton 30% Poly 5% Spandex	Brand Name Offered: <b>BOB BARKER</b> <b>EBASPLS</b> Estimated # of purchases per year: <u>860 dozen</u>	32 A,B,C,D	42.95	55-60%	19.44
			34 A,B,C,D	42.95	55-60%	19.44
			36 A,B,C,D	42.95	55-60%	19.44
			38 A,B,C,D	42.95	55-60%	19.44
			40 A,B,C,D	48.95	55-60%	19.44
			42 A,B,C,D	48.95	55-60%	19.88
			44 A,B,C,D	48.95	55-60%	19.88

5	<b>SOCKS - Unisex</b> <del>*50% Cotton/50% Polyester blend</del> *All white tube sock *Fruit of the Loom or equivalent  80% Cotton 20% Poly	Brand Name Offered: <b>BOB BARKER</b> 1700-W Estimated # of purchases per year: <u>1,350 dozen</u>	Shoe Size (9 1/2 - 11)	8.65	45%	4.74

6	<b>GYM SHORTS - Unisex</b> *50% Cotton/50% Polyester blend *Mid-thigh length *Must be pull up with elastic waist (no strings) *Color: Navy *Fruit of the Loom or equivalent	Brand Name Offered: <b>BOB BARKER</b> 859 Estimated # of purchases per year: <u>30 dozen</u>	Small	7.93	48-53%	3.67
			Medium	7.93	48-53%	3.67
			Large	7.93	48-53%	3.88
			X-Large	7.93	48-53%	3.99
			2X-Large	7.93	48-53%	4.11
			3X-Large	8.66	48-53%	4.32

7	<b>SWEAT PANTS - Unisex</b> *50% Cotton/50% Polyester blend *Must be pull up with elastic waist (no strings) *Color: Grey *Fruit of the Loom or equivalent	Brand Name Offered: <b>BOB BARKER</b> <b>SPGY</b> Estimated # of purchases per year: <u>35 dozen</u>	Small	8.19	27-39%	5.42
			Medium	8.19	27-39%	5.92
			Large	8.86	27-39%	5.92
			X-Large	8.86	27-39%	5.92
			2X-Large	9.68	27-39%	6.68
			3X-Large	11.68	27-39%	7.12



8	<b>SWEAT SHIRT - Unisex</b> *50% Cotton/50% Polyester blend *Must be pull over *Must be crew neck *Color: Grey *Fruit of the Loom or equivalent	Brand Name Offered: <u>Bob Barker</u> SSGY Estimated # of purchases per year: <u>35 dozen</u>	Small	8.19	27-39%	5.42
			Medium	8.19	27-39%	5.92
			Large	8.86	27-39%	5.92
			X-Large	8.86	27-39%	5.92
			2X-Large	9.68	27-39%	6.68
			3X-Large	11.68	27-39%	7.12

9	<b>COVERALL</b> *Fabric to be perma-press *65% Polyester/35% Cotton twill *Short sleeve, full cut, double stitched, reinforced at points of strain *Fly front closure to conceal heavy duty snaps (grippers not acceptable) *One pocket only over left breast, no opening in side seams *Colors: Orange, Khaki, Yellow, Navy and Red and Dark Brown *Screen print: Each order shall have: SFCADF in 5 inch black letters (bold) backside of coverall *No screen print necessary for juvenile facility.	Brand Name Offered: <u>BOB BARKER</u> Estimated # of purchases per year: <u>170 dozen</u>	Small	16.43	36-54%	10.39
			Medium	16.43	36-54%	10.39
			Large	16.43	36-54%	10.39
			X-Large	16.43	36-54%	10.39
			2X-Large	17.88	36-54%	10.39
			3X-Large	19.33	36-54%	10.39
			4X-Large	20.48	36-54%	10.39
			5X-Large	21.62	36-54%	10.39
			6X-Large	22.61	36-54%	10.39
			7X-Large	23.64	36-54%	13.15
			8X-Large	25.18	36-54%	13.15
			9X-Large	25.70	36-54%	13.15
			10X-Large	26.68	36-54%	13.15

12	<b>INMATE JACKET - WINTER</b> *100% Cotton *Blanket lined *Acrylic/Polyester Denim Outer Shell *Screen print: Each order shall have: SFCADF in 5 inch black letters (bold) backside of jacket	Brand Name Offered: <u>BOB BARKER</u> 652-8L Estimated # of purchases per year: <u>200 each</u>	38/40	21.58	23-31%	15.51
			42/44	21.58	23-31%	15.51
			46/48	21.58	23-31%	16.58
			50/52	23.64	23-31%	16.58
			54/56	25.70	23-31%	17.42
			58/60	28.17	23-31%	19.33
			66/68	29.82	23-31%	21.38
			70/72	33.73	23-31%	27.40
			74/76	38.37	23-31%	28.40

13	<b>SHOWER SHOES</b> *Anti-Fungal *Anti-Bacterial *Flexible PVC *Leslee Scott Sabre series or equivalent	Brand Name Offered: <u>BOB BARKER</u> SABR Estimated # of purchases per year: <u>40 cases</u>	Small	3.08	50%	1.52
			Medium	3.08	50%	1.52
			Large	3.08	50%	1.52
			X-Large	3.08	50%	1.52
			2X-Large	3.08	50%	1.52
			3X-Large	3.08	50%	1.52

14	CANVAS SHOES *7 oz canvas material *Vulcanized rubber soles *Full cushion insoles with arch support *Reinforced stress points at heel and toe *Machine washable *Color: Orange and/or White	Brand Name Offered: BOB BARKER 1550R  Estimated # of purchases per year: <u>504 pairs</u>	NO BID ON THIS SIZE			
			4			
			5	4.15	32%	2.84
			6	4.15	32%	2.84
			7	4.15	32%	2.84
			8	4.15	32%	2.84
			9	4.15	32%	2.84
			10	4.15	32%	2.84
			10.5	4.15	32%	2.84
			11	4.15	32%	2.84
			11.5	4.15	32%	2.84
			12	4.15	32%	2.84
			13	4.15	32%	2.84
			14	4.15	32%	2.84

15	LEATHER WORK BOOTS *6" Genuine leather upper *Plain toe *Oil resistant, non-marking, cleated gum rubber outsole to prevent slipping *Goodyear welt construction *27 mm triple cushion, lined insole with arch support *Riveted at main stress points *Cambrelle lining *Non-rust eyelets *Padded tongue and collar *Shankless Double stitched loop backstay *Outsole to upper, stitched and cemented for double reinforcement *Colors: Black or brown *Wide width *Whole/half size	Brand Name Offered: BOB BARKER 8515/B525  Estimated # of purchases per year: <u>180 pairs</u>	5 - 5 1/2	23.75	31%	16.48
			6 - 6 1/2	23.75	31%	16.48
			7 - 7 1/2	23.75	31%	16.48
			8 - 8 1/2	23.75	31%	16.48
			9 - 9 1/2	23.75	31%	16.48
			10 - 10 1/2	23.75	31%	16.48
			11 - 11 1/2	23.75	31%	16.48
			12 - 12 1/2	23.75	31%	16.48
			13 - 13 1/2	23.75	31%	16.48
			14 - 14 1/2	23.75	31%	16.48
			15 - 15 1/2	23.75	31%	16.48
			16 - 16 1/2	23.75	31%	16.48

Not Available in the sizes  
for 12-14

16	<b>KITCHEN BOOTS</b> *100% Waterproof *Seamless molded construction *Anti-Skid *Outsole and heel with reinforced construction at critical stress points *Foot form contour insole	Brand Name Offered: <b>BOB BARKER</b> KBP Estimated # of purchases per year: <u>24 pairs</u>	4	12.95	8%	11.98
			5	12.95	8%	11.98
			6	12.95	8%	11.98
			7	12.95	8%	11.98
			8	12.95	8%	11.98
			9	12.95	8%	11.98
			10	12.95	8%	11.98
			11	12.95	8%	11.98
			12	12.95	8%	11.98
			13	12.95	8%	11.98

17	<b>SHAMPOO - 2 oz.</b> *Clear formula *Clear bottle *Plastic container *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>96</u>	Brand Name Offered: <b>BOB BARKER</b> MS2 Estimated # of purchases per year: <u>125 cases</u>	Each	23.35	13%	20.25
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18	<b>FACE/BODY BAR SOAP</b> *1.5 oz unwrapped *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>500</u>	Brand Name Offered: <b>BOB BARKER</b> TU15 Estimated # of purchases per year: <u>125 cases</u>	Each	54.95	0%	54.95
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19	<b>RAZOR</b> *Anti-Shank - break away when tampered with *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle)	Brand Name Offered: <b>BOB BARKER</b> A63950 Estimated # of purchases	Each	197.25	24%	149.90
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	*Specify # of units per package <u>500</u>	per year: <u>135 cases</u>				
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20	<b>TOOTHBRUSH</b> *3 1/4" long *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>BOB BARKER</b> <b>BBST25</b> Estimated # of purchases per year: <u>55 cases</u>	Each	8.25	30%	5.79
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21	<b>TOOTHPASTE (Flouride)</b> *0.85 oz *Clear toothpaste *Clear, plastic tube *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>BOB BARKER</b> <b>MST85</b> Estimated # of purchases per year: <u>75 cases</u>	Each	28.45	30%	19.88
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22	<b>DEODERANT</b> *0.5 oz *Scent free *Push up container *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>MAXIMUM SECURITY</b> <b>FD-05</b> Estimated # of purchases per year: <u>120 cases</u>	Each	49.95	33%	33.18
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23	<b>SANITARY NAPKIN</b> *Feminine Hygiene *Individually wrapped *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>500</u>	Brand Name Offered: <b>BOB BARKER</b> <b>500IM-C</b> Estimated # of purchases per year: <u>110 cases</u>	Each	49.95	36%	26.00
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Bob Barker Company, Inc.

24	<b>COMB</b> *9" *Black plastic *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>BOB BARKER</b> C-9 Estimated # of purchases per year: <u>36 boxes</u>	Each	14.76	11%	13.12
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25	<b>HAIRBRUSH</b> *7 3/4" *Vented, plastic bristles *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> HB-02 Estimated # of purchases per year: <u>36 boxes</u>	Each	5.45	28%	3.94
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26	<b>Wash Cloths</b> *100% Cotton *12" x 12" *Flame Retardant *Securely stitched hem *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> WC1212 Estimated # of purchases per year: <u>180 dozen</u>	Each	3.55	57%	1.53
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27	<b>TOWELS</b> *100% Cotton *Bath Towel - 22" x 24" *Flame Retardant *Securely stitched hem *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> BT2244 Estimated # of purchases per year: <u>180 dozen</u>	Each	21.95	19%	11.16
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BOB BARKER COMPANY, INC.

28	<b>SHEETS</b> *50% Polyester/50% cotton *54" x 90" *180 thread count *No iron *Securely stitched hem *Flame retardant *Color: White *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> <b>SH5490P</b> Estimated # of purchases per year: <u>180 dozen</u>	Each	77.61	45%	42.55
29	<b>PILLOW CASES</b> *50% Polyester/50% cotton *42" x 36" *180 thread count *No iron *Securely stitched hem *Flame retardant *Color: White *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> <b>PC4234P</b> Estimated # of purchases per year: <u>10 dozen</u>	Each	21.88	37%	13.84
30	<b>BLANKET</b> *40% Wool/60% Synthetic Fiber *54" x 84" *Whipstitched ends *Flame retardant *Color: Dark Grey *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>24</u>	Brand Name Offered: <b>BOB BARKER</b> <b>RB5484</b> Estimated # of purchases per year: <u>120 dozen</u>	Each	106.74	12%	94.32

Bob Barker Company, Inc.

31	<b>PILLOWS</b> *20" x 26" *Flame resistant *Micro-Guard Cover to kill bacteria and prevent from spreading *Antimicrobial polyester fiberfill *Easy to clean with soap and water	Brand Name Offered: <b>BOB BARKER</b> ANP56 Estimated # of purchases per year: <u>100 each</u>	Each	7.65	11%	6.82
32	<b>DERBY MATTRESS OR EQUIVALENT</b> *Description: Envelope style, 100% sealed seam, Dartex fabric cover that is warranted to not crack for up to 5 years; fluid resistant breathable vent. Flame retardant mattress suitable for continuous use in correctional environments. If mattress is equivalent specify mattress type <b>Materials: (Must Include)</b> a. Cover must be Dartex Coatings, Inc. PU coated fabric, ISO certified b. 5 year warranty against cracking, dimensional stability c. Flame retardant d. Anti-fungal e. Anti-microbial f. Bacteriostatic g. Virus barrier h. Moisture vapor permeable i. Washable j. Abrasi. r resistant <b>Construction: (Must Include)</b> a. 100% sealed seam with no stitching b. Breathable vend must resist water, oil, urine, blood and head lice c. Seam strength in excess of 70 lbs. d. Core must be 100% densified polyester, minimum of 12 oz./sq. ft. density e. Envelop style construction, turned edge construction with all seams inside the mattress f. Thickness no less than 4.5"	Brand Name Offered: <b>BOB BARKER</b> JSS25754.5P Estimated # of purchases per year: <u>100 each</u>	Each	82.22	9%	75.15

	<p>g. Size: 4.5 x 25 x 75 (Must Meet These Tests) Flammability and ASTM testing must meet or exceed the requirements of the following:</p> <ul style="list-style-type: none"> <li>a. California Technical Bulletin 117</li> <li>b. California Technical Bulletin 121</li> <li>c. California Technical Bulletin 129</li> <li>d. California Technical Bulletin 133</li> <li>e. California Technical Bulletin 603</li> <li>f. ASTM E 162-95 Flame Spread Test</li> <li>g. ASTM D 2863-00 (Oxygen Index) Procedure "A"</li> <li>h. ASTM E 662 Smoke Density Test</li> <li>i. Consumer Product Safety Commission, 16 CFR 1632, Standard for the Flammability of Mattresses and Mattress Pads</li> <li>j. Clean ability Standard DS #7566</li> </ul> <p>Life Cycle Test: Must pass rotator test of 100,000 cycles with minimum loss of density and no cover damage.</p> <p>Test Reports: Where products, materials and procedures are specified by reference to specific tests or standards, bidders must submit 2 copies of certificates from an independent testing laboratory showing satisfactory completion of specified tests and conformance to standards.</p>					
33	<p><b>MATTRESS MENDING PATCHES</b> *Clear, Water resistant tear patch *3" x 6"</p> <p>*Specify how units are packaged Each _____ (i.e. box, package, dozen, case, bundle) *Specify # of units per package 1 _____</p>	<p>Brand Name Offered: BOB BARKER PATCH</p> <p>Estimated # of purchases per year: 50 each</p>	Each	4.25	59%	1.75



34	<b>LAUNDRY BAGS</b> *24" W x 36" *White *100% Polyester Mesh *Weight: 4.4 oz per sq. yard * Thickness: 0.040" *High quality, heavy duty cotton wrapped polyester thread *High quality polyester will not break down quickly from detergents or shrivel up * NO Tie Cord  *Specify how units are packaged <u>Dozen</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <u>BBC</u> <u>ZW2436NC</u>  Estimated # of purchases per year: <u>100 dozen</u>	Each	39.84/DZ	25%	30.00/DZ
35	<b>SLIP-ON PVC SANDAL, ORAGNE</b> *Unisex sizing whole sizes 6-16 *One piece "basket-weave" look *Form fitting PVC construction *Non-skid *Non-marking * Soft and pliable *Specify how units are packaged <u>Each</u> (i.e. box, package, dozen, case, bundle)	Brand Name Offered: <u>Bob Barker</u>  Estimated # of purchases per year: <u>100 pairs</u>	Each	2.69	56%	1.50



**PRICE AGREEMENT FOR  
INMATE CLOTHING, HYGIENE, LINEN & MATTRESSES  
FOR SANTA FE COUNTY CORRECTIONS DEPARTMENT**

**THIS AGREEMENT** is made and entered into this 20 day of August, 2014 by and between **Santa Fe County**, a political subdivision of the County of the State of New Mexico (hereinafter referred to as the "County") and **Bob Barker Company, Inc** located at 134 N. Main Street, Fuquay Varina, NC 27526 (hereinafter referred to as the "Contractor.")

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. DEFINITIONS**

- A. "County" shall mean the County of Santa Fe, New Mexico.
- B. "Using Department or Department" shall mean a Department of Santa Fe County.
- C. "Purchase Order" shall mean a fully executed Purchase Document issued by the County Purchasing Department that specifies the items and services to be provided by the Contractor.
- D. "Price Agreement" means this indefinite quantity Price Agreement which requires the Contractor to provide the items to a Using Department which issues a Purchase Order.
- E. "Price" means the prices paid by the County and its Departments for inmate clothing, hygiene, linen & mattresses for the Santa Fe County Corrections Department as described in Exhibit A.

**2. GOODS TO BE PROVIDED**

- A. **Purchase.** Exhibit A of this Price Agreement are the prices for the Contractor's services and deliverables. Exhibit A also indicates any specifications required for the items that are subject of this Price Agreement.
- B. **Items Listed on Exhibit A.** The County may issue Purchase Orders for the purchase of the items listed on Exhibit A. Any service ordered by the County must be an item(s) described on Exhibit A. All orders issued hereunder must bear both an order number and the number of this Price Agreement #2014-0297-CORR/IC.
- C. **Quantities.** It is understood that this is an indefinite quantity Price Agreement and the County may purchase any quantity of the items listed on Exhibit A on an as-needed basis. No guarantee or warranty is made or implied that any order for any definite quantity of items be issued under this Price Agreement. The Contractor is required to accept the Purchase Order and furnish the item(s) and service.
- D. **Specifications.** The items furnished under this Price Agreement shall meet or exceed the specifications provided in IFB# 2014-0297-CORR/IC including all Addenda. Orders issued pursuant to this Agreement must show the applicable Price Agreement items/services(s) and price(s).
- E. **Delivery and Billing Instructions.**
  - 1. The Contractor shall deliver the items and service in accordance with the County's instructions. The Contractor shall also deliver, with the items ordered, an invoice listing the order number and the Price Agreement number.

2. If the Department does not accept any deliverable and returns it to the Contractor, all related documentation furnished by the Contractor shall be returned.
3. The Department will inform the Contractor within five (5) business days that a deliverable is unacceptable by the Department.
4. Prices listed in Exhibit A, for each item, shall be the fixed prices and rates for the items and services.

**3. PAYMENT.** All payments under this Price Agreement are subject to the following provisions:

- A. **Inspection.** Final inspection and acceptance of a deliverable shall be made by the Using Department.
- B. **Acceptance.** In accordance with NMSA 1978, Section 13-1-158, the Using Department shall determine if the services and deliverables meet specifications and will accept the services or deliverables if they meet specifications. No payment shall be made for any service until the items and services have been accepted in writing by the Using Department. Unless otherwise agreed upon, between the Department and the Contractor within thirty (30) days from the delivery and receipt of services or deliverable, the Using Department shall issue a written certification of complete or partial acceptance or rejection of any service or deliverable. Unless the Using Department gives notice of partial acceptance or rejection within the time specified in Paragraph 2 above, the services or deliverables will be deemed to have been accepted.
- C. **Issuance of Orders.** Only written, signed and properly executed Purchase Orders are valid under this Price Agreement.
- D. **Payment.** County shall pay Contractor on an invoice received from Contractor within thirty (30) days from the date the County approves the invoice.
- E. **Taxes.** Applicable gross receipts taxes or local option tax(es) shall be included on each invoice and shown as a separate item on each invoice. The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and must be reported under the Contractor's federal and county tax identification number(s). If the Using Department is exempt from the New Mexico gross receipts tax or local option taxes for the transaction, the Using Department shall provide the Contractor written evidence of such exemption(s).

**4. TERM OF THIS AGREEMENT.** This Price Agreement shall not become effective until approved in writing by all the parties as shown by their signatures below (the effective date). The term of this Agreement shall be two (2) years from the Effective Date. The County has the option to renew the term of this Agreement on the same terms and conditions. The term of this Agreement including all renewals shall not exceed a total of four (4) years.

**5. CANCELLATION.**

- A. The County reserves the right to cancel without cost to the County all or any part of any order placed under this Price Agreement if the services or deliverables fail to meet the requirements of this Price Agreement.
- B. The failure of the Contractor to perform its obligations under this Price Agreement shall constitute a default of this Price Agreement.
- C. The Contractor may be excused from performance if the Contractor's failure to perform

the order arises out of causes beyond the control and without the fault or negligence of the Contractor, unless the County shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

- D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the County or Federal government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.
- E. The County may cancel all, or any part, of any order without cost to the County if the Contractor fails to meet material provisions of the order and the Contractor shall be liable for any excess costs incurred by the County that is associated with such default.

#### 6. TERMINATION.

- A. **For Convenience.** Consistent with applicable New Mexico laws, this Price Agreement may be terminated by the County, without penalty, at any time prior to the termination date of this Price Agreement. County will provide at least twenty (20) days prior written notice to the Contractor of the date of termination. Notice of Termination of this Price Agreement shall not affect any outstanding order(s) issued under this Price Agreement prior to the effective date of termination for convenience by the County.
- B. **For Cause.** Either party may terminate this Agreement for cause based upon material breach of this Agreement by the other party, provided that the non-breaching party shall give the breaching party written notice specifying the breach and shall afford the breaching party a reasonable opportunity to correct the breach. If, within thirty (30) days, after receipt of a written notice, the breaching party has not corrected the breach or, in the case of a breach which cannot be corrected in thirty (30) days, begin and proceed in good faith to correct the breach, the non-breaching party may declare the breaching party in default and terminate the Agreement effective immediately. The non-breaching party shall retain any and all other remedies available to it under the law.

7. **AMENDMENT.** Except for amendment affecting price(s), this Price Agreement may be amended by mutual agreement of the County and the Contractor upon written notice by either party to the other. Any such amendment shall be in writing and signed by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the County, prior to the effective date of the amendment.

8. **ASSIGNMENT.** Contractor shall not sell, assign, pledge, transfer, or otherwise convey any of its rights or interests in this Price Agreement.

9. **NON-COLLUSION.** In signing this Price Agreement, the Contractor certifies it has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with its offer and this Price Agreement.

10. **RECORDS.** During the term of this Price Agreement and for three (3) years thereafter, the Contractor shall maintain detailed records pertaining to the services or deliverables provided. These records shall be subject to inspection by the Department, the County and State Auditor and other appropriate County authorities. The County shall have the right to audit billings both

before and after payment. Payment under this Price Agreement shall not foreclose the right of the Department to recover excessive or illegal payments.

**11. APPROPRIATIONS.** The terms of this Price Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Price Agreement. If sufficient appropriations and authorization are not made, this Price Agreement, and any orders placed under it, shall terminate upon written notice being given to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

**12. CONFLICT OF INTEREST.** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with any performance required under this Price Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

**13. APPROVAL OF CONTRACTOR'S REPRESENTATIVES.** The County reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the opinion of the County, serving the needs of the County adequately.

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

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

**16. INDEMNIFICATION.** The Contractor shall hold the County and its Departments, agencies and employees harmless and shall indemnify the County and its agencies and employees against any and all claims, suits, actions, liabilities and cost of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees, or sub-contractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the Department, its officers or employees.

**17. THIRD PARTY BENEFICIARY.** This Price Agreement was not intended to and does not create any rights in any persons not a party hereto.

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

## 19. INSURANCE.

- A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Price Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000 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 Price Agreement is an insured contract. Santa Fe County shall be named an additional insured on the policy.
- C. Worker's Compensation Insurance. The Contractor shall comply with the provisions of the Worker's Compensation Act.
- D. Increased Limits. If, during the life of this Price 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.

**20. APPLICABLE LAW.** This Price Agreement shall be governed by the laws of the State of New Mexico.

**21. CHOICE OF LAW.** This Price Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. The parties agree that the exclusive forum for any litigation between them arising out of or related to this Price Agreement shall be in the First Judicial District Court of New Mexico, located in Santa Fe County, New Mexico.

**22. INVALID TERM OR CONDITION/SEVERABILITY.** The provisions of this Price Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Price Agreement is determined to be invalid by a court or department or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of the Price Agreement, which can be given effect without the invalid provision.

**23. ENFORCEMENT OF AGREEMENT.** A party's failure to require strict performance of any provision of this Price Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by party or any of its rights under this Price Agreement shall be effective unless express and in writing, and not effective waiver by a party of any of its right shall be effective to waive any other rights.

**24. SURVIVAL.** The Provisions of the following listed paragraphs shall survive termination of this Price Agreement: Delivery & Billing Instructions; Records; Indemnification; Applicable

Law: and Survival.

**25. NOTICES.** Either party may give written notice to the other party in accordance with the terms of this Price Agreement. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

**To the County:**  
Santa Fe County  
Attn: County Manager  
102 Grant Avenue  
PO Box 276  
Santa Fe, NM 87504-0276

**To the Contractor:**  
Bob Barker Company, Inc  
Allison Wilmesmeier  
134 N. Main Street  
Fuquay Varina, NC 27526

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Price Agreement. The carrier for mail delivery and notices shall be the agent of the sender.

**26. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS**

The Contractor hereby irrevocably appoints National Registered Agents, Inc., located at 123 East Marcy, Santa Fe, New Mexico 87501, a New Mexico company as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the State of New Mexico.

**27. SANTA FE COUNTY LIVING WAGE REQUIREMENT.** Contractor agrees to abide by Santa Fe County Ordinance 2014-1 Establishing a Living Wage within Santa Fe County. Contractor acknowledges and agrees that failure to comply with this Section of the agreement/contract shall constitute a material breach of the Agreement.



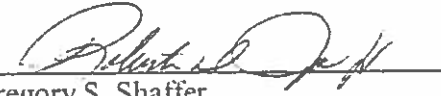
IN WITNESS WHEREOF, the parties have executed this Price Agreement as of the date of execution by:

**SANTA FE COUNTY**

  
Katherine Miller  
Santa Fe County Manager

8.20.14  
Date

**APPROVED AS TO FORM**

  
Gregory S. Shaffer  
Santa Fe County Attorney

8/12/14  
Date

**FINANCE DEPARTMENT APPROVAL**

  
Teresa C. Martinez, Director  
Santa Fe County Finance Department

8/18/14  
Date

**BOB BARKER COMPANY, INC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Title

**FEDERAL TAX I.D. NUMBER:** 56-1558062





IFB #2014-0297-CORR/IC

Santa Fe County  
Administrative Services Department  
142 W. Palace Ave.  
2<sup>nd</sup> Floor  
Santa Fe, NM 87501

**IFB #2014-0297-CORR/IC**

Please offer your best price, for each item as outline below. The Bidders shall complete the following bid sheet in full, for Bid No. 2014-0297-CORR/IC, including signature at the bottom as stated. Be advised that award may be made without discussion with Bidders on offers received. Offers will be accepted until 2:00 pm on the bid due date specified. Samples of all items with the exception of mattresses must be included with the bid. For mattresses, manufacture specification sheets must be supplied.

Item	Description	Brand & Quantity	Size	List Price Before Discount	% Discount Offered	Net Price Per Item After Discount
1	<b>T-SHIRTS - Unisex</b> *50% Cotton/50% Polyester *Must be crewneck *Color - must be white *Short Sleeve * Fruit of the Loom or equivalent	Brand Name Offered: Various ZBTSWH Estimated # of purchases per year: <u>25 dozen</u>	Small	37.56	42-48%	19.44
			Medium	37.56	42-48%	19.44
			Large	37.56	42-48%	19.44
			X-Large	37.56	42-48%	19.44
			2X-Large	54.84	42-48%	31.44
			3X-Large	54.84	42-48%	31.44
2	<b>MEN'S BOXERS 40%</b> *50% Cotton/50% Polyester *Color - must be white *Fruit of the Loom or equivalent	Brand Name Offered: Bob Barker EBXLSQ Estimated # of purchases per year: <u>2,500 dozen</u>	Small	19.72	30-40%	11.90
			Medium	19.72	30-40%	12.25
			Large	19.72	30-40%	12.90
			X-Large	19.72	30-40%	13.90
			2X-Large	23.06	30-40%	15.68
			3X-Large	23.06	30-40%	16.22
3	<b>WOMEN'S PANTIES</b> *100% Cotton blend *Color - must be white *Hanes brand or equivalent	Brand Name Offered: Bob Barker ELBLCTN Estimated # of purchases per year: <u>860 dozen</u>	5	13.34	52-59%	5.74
			6	13.34	52-59%	5.74
			7	13.34	52-59%	5.74
			8	13.34	52-59%	6.22
			9	13.34	52-59%	7.05
			10	17.46	52-59%	7.05
			12	17.46	52-59%	7.05
			14	17.46	52-59%	8.32

Bob Barker Company, Inc.

4	<b>BRAS</b> <del>*50% Cotton/50% Polyester blend</del> *Must be pull over, without snaps, hook and eyes and no under wire *Color – must be white *Playtex brand or equivalent  65% Cotton 30% Poly 5% Spandex	Brand Name Offered: <b>BOB BARKER</b> <b>EBASPLS</b> Estimated # of purchases per year: <u>860 dozen</u>	32 A,B,C,D	42.95	55-60%	19.44
			34 A,B,C,D	42.95	55-60%	19.44
			36 A,B,C,D	42.95	55-60%	19.44
			38 A,B,C,D	42.95	55-60%	19.44
			40 A,B,C,D	48.95	55-60%	19.44
			42 A,B,C,D	48.95	55-60%	19.88
			44 A,B,C,D	48.95	55-60%	19.88
5	<b>SOCKS - Unisex</b> <del>*50% Cotton/50% Polyester blend</del> *All white tube sock *Fruit of the Loom or equivalent  80% Cotton 20% Poly	Brand Name Offered: <b>BOB BARKER</b> 1700-W Estimated # of purchases per year: <u>3,350 dozen</u>	Shoe Size (9 1/2 - 11)	8.65	45%	4.74
6	<b>GYM SHORTS - Unisex</b> *50% Cotton/50% Polyester blend *Mid-thigh length *Must be pull up with elastic waist (no strings) *Color: Navy *Fruit of the Loom or equivalent	Brand Name Offered: <b>BOB BARKER</b> 859 Estimated # of purchases per year: <u>30 dozen</u>	Small	7.93	48-53%	3.67
			Medium	7.93	48-53%	3.67
			Large	7.93	48-53%	3.88
			X-Large	7.93	48-53%	3.99
			2X-Large	7.93	48-53%	4.11
			3X-Large	8.66	48-53%	4.32
7	<b>SWEAT PANTS - Unisex</b> *50% Cotton/50% Polyester blend *Must be pull up with elastic waist (no strings) *Color: Grey *Fruit of the Loom or equivalent	Brand Name Offered: <b>BOB BARKER</b> <b>SPGY</b> Estimated # of purchases per year: <u>35 dozen</u>	Small	8.19	27-39%	5.42
			Medium	8.19	27-39%	5.92
			Large	8.86	27-39%	5.92
			X-Large	8.86	27-39%	5.92
			2X-Large	9.68	27-39%	6.68
			3X-Large	11.68	27-39%	7.12

8	<b>SWEAT SHIRT - Unisex</b> *50% Cotton/50% Polyester blend *Must be pull over *Must be crew neck *Color: Grey *Fruit of the Loom or equivalent	Brand Name Offered: <b>Bob Barker</b> SSGY Estimated # of purchases per year: <u>35 dozen</u>	Small	8.19	27-39%	5.42
			Medium	8.19	27-39%	5.92
			Large	8.86	27-39%	5.92
			X-Large	8.86	27-39%	5.92
			2X-Large	9.68	27-39%	6.68
			3X-Large	11.68	27-39%	7.12

9	<b>COVERALL</b> *Fabric to be perma-press *65% Polyester/35% Cotton twill *Short sleeve, full cut, double stitched, reinforced at points of strain *Fly front closure to conceal heavy duty snaps (grippers not acceptable) *One pocket only over left breast, no opening in side seams *Colors: Orange, Khaki, Yellow, Navy and Red and Dark Brown *Screen print: Each order shall have: <b>SFCADF</b> in 5 inch black letters (bold) backside of coverall *No screen print necessary for juvenile facility.	Brand Name Offered: <b>BOB BARKER</b> Estimated # of purchases per year: <u>170 dozen</u>	Small	16.43	36-54%	10.39
			Medium	16.43	36-54%	10.39
			Large	16.43	36-54%	10.39
			X-Large	16.43	36-54%	10.39
			2X-Large	17.88	36-54%	10.39
			3X-Large	19.33	36-54%	10.39
			4X-Large	20.48	36-54%	10.39
			5X-Large	21.62	36-54%	10.39
			6X-Large	22.61	36-54%	10.39
			7X-Large	23.64	36-54%	13.15
			8X-Large	25.18	36-54%	13.15
			9X-Large	25.70	36-54%	13.15
			10X-Large	26.68	36-54%	13.15

12	<b>INMATE JACKET - WINTER</b> *100% Cotton *Blanket lined *Acrylic/Polyester Denim Outer Shell *Screen print: Each order shall have: <b>SFCADF</b> in 5 inch black letters (bold) backside of jacket	Brand Name Offered: <b>BOB BARKER</b> 652-BL Estimated # of purchases per year: <u>200 each</u>	38/40	21.58	23-31%	15.51
			42/44	21.58	23-31%	15.51
			46/48	21.58	23-31%	16.58
			50/52	23.64	23-31%	16.58
			54/56	25.70	23-31%	17.42
			58/60	28.17	23-31%	19.33
			66/68	29.82	23-31%	21.38
			70/72	33.73	23-31%	27.40
			74/76	38.37	23-31%	28.40

13	<b>SHOWER SHOES</b> *Anti-Fungal *Anti-Bacterial *Flexible PVC *Leslee Scott Sabre series or equivalent	Brand Name Offered: <b>BOB BARKER</b> SABR Estimated # of purchases per year: <u>60 cases</u>	Small	3.08	50%	1.52
			Medium	3.08	50%	1.52
			Large	3.08	50%	1.52
			X-Large	3.08	50%	1.52
			2X-Large	3.08	50%	1.52
			3X-Large	3.08	50%	1.52

14	<b>CANVAS SHOES</b> *7 oz canvas material *Vulcanized rubber soles *Full cushion insoles with arch support *Reinforced stress points at heel and toe *Machine washable *Color: Orange and/or White	Brand Name Offered: <b>BOB BARKER</b> <b>155OR</b>  Estimated # of purchases per year: <u>504 pairs</u>	4	NO BID ON THIS SIZE		
			5	4.15	32%	2.84
			6	4.15	32%	2.84
			7	4.15	32%	2.84
			8	4.15	32%	2.84
			9	4.15	32%	2.84
			10	4.15	32%	2.84
			10.5	4.15	32%	2.84
			11	4.15	32%	2.84
			11.5	4.15	32%	2.84
			12	4.15	32%	2.84
			13	4.15	32%	2.84
			14	4.15	32%	2.84

15	<b>LEATHER WORK BOOTS</b> *6" Genuine leather upper *Plain toe *Oil resistant, non-marking, cleated gum rubber outsole to prevent slipping *Goodyear welt construction *27 mm triple cushion, lined insole with arch support *Riveted at main stress points *Cambrelle lining *Non-rust eyelets *Padded tongue and collar *Shankless Double stitched loop backstay *Outsole to upper; stitched and cemented for double reinforcement *Colors: Black or brown *Wide width *Whole/half size	Brand Name Offered: <b>BOB BARKER</b> <b>B5T5/B525</b>  Estimated # of purchases per year: <u>180 pairs</u>	5 - 5 1/2	23.75	31%	16.48
			6 - 6 1/2	23.75	31%	16.48
			7 - 7 1/2	23.75	31%	16.48
			8 - 8 1/2	23.75	31%	16.48
			9 - 9 1/2	23.75	31%	16.48
			10 - 10 1/2	23.75	31%	16.48
			11 - 11 1/2	23.75	31%	16.48
			12 - 12 1/2	23.75	31%	16.48
			13 - 13 1/2	23.75	31%	16.48
			14 - 14 1/2	23.75	31%	16.48
			15 - 15 1/2	23.75	31%	16.48
			16 - 16 1/2	23.75	31%	16.48

Not Available in 1/2 sizes  
for 12-16

16	<b>KITCHEN BOOTS</b> *100% Waterproof *Seamless molded construction *Anti-Skid *Outsole and heel with reinforced construction at critical stress points *Foot form contour insole	Brand Name Offered: <b>BOB BARKER</b> KBP Estimated # of purchases per year: <u>24 pairs</u>	4	12.95	8%	11.98
			5	12.95	8%	11.98
			6	12.95	8%	11.98
			7	12.95	8%	11.98
			8	12.95	8%	11.98
			9	12.95	8%	11.98
			10	12.95	8%	11.98
			11	12.95	8%	11.98
			12	12.95	8%	11.98
			13	12.95	8%	11.98

17	<b>SHAMPOO - 2 oz.</b> *Clear formula *Clear bottle *Plastic container *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>96</u>	Brand Name Offered: <b>BOB BARKER</b> MS2 Estimated # of purchases per year: <u>125 cases</u>	Each	23.35	13%	20.25
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18	<b>FACE/BODY BAR SOAP</b> *1.5 oz unwrapped *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>500</u>	Brand Name Offered: <b>BOB BARKER</b> TU15 Estimated # of purchases per year: <u>125 cases</u>	Each	54.95	0%	54.95
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19	<b>RAZOR</b> *Anti-Shank - break away when tampered with *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle)	Brand Name Offered: <b>BOB BARKER</b> A63950 Estimated # of purchases	Each	197.25	24%	149.90
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	*Specify # of units per package <u>500</u>	per year: <u>135 cases</u>				
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20	<b>TOOTHBRUSH</b> *3 1/4" long *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>BOB BARKER</b> <b>BBST25</b> Estimated # of purchases per year: <u>55 cases</u>	Each	8.25	30%	5.79
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21	<b>TOOTHPASTE (Flouride)</b> *0.85 oz *Clear toothpaste *Clear, plastic tube *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>BOB BARKER</b> <b>MST85</b> Estimated # of purchases per year: <u>75 cases</u>	Each	28.45	30%	19.88
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22	<b>DEODERANT</b> *0.5 oz *Scent free *Push up container *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>MAXIMUM SECURITY</b> <b>FD-05</b> Estimated # of purchases per year: <u>120 cases</u>	Each	49.95	33%	33.18
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23	<b>SANITARY NAPKIN</b> *Feminine Hygiene *Individually wrapped *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>500</u>	Brand Name Offered: <b>BOB BARKER</b> <b>500IM-C</b> Estimated # of purchases per year: <u>110 cases</u>	Each	49.95	36%	26.00
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24	<b>COMB</b> *9" *Black plastic *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>144</u>	Brand Name Offered: <b>BOB BARKER</b> C-9 Estimated # of purchases per year: <u>36 boxes</u>	Each	14.76	11%	13.12
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25	<b>HAIRBRUSH</b> *7 3/4" *Vented, plastic bristles *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> HB-02 Estimated # of purchases per year: <u>36 boxes</u>	Each	5.45	28%	3.94
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26	<b>Wash Cloths</b> *100% Cotton *12" x 12" *Flame Retardant *Securely stitched hem *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> WC1212 Estimated # of purchases per year: <u>180 dozen</u>	Each	3.55	57%	1.53
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27	<b>TOWELS</b> *100% Cotton *Bath Towel - 22" x 24" *Flame Retardant *Securely stitched hem *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> BT2244 Estimated # of purchases per year: <u>180 dozen</u>	Each	21.95	49%	11.16
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28	<b>SHEETS</b> *50% Polyester/50% cotton *54" x 90" *180 thread count *No iron *Securely stitched hem *Flame retardant *Color: White *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> SH5490P Estimated # of purchases per year: <u>180 dozen</u>	Each	77.61	45%	42.55
29	<b>PILLOW CASES</b> *50% Polyester/50% cotton *42" x 36" *180 thread count *No iron *Securely stitched hem *Flame retardant *Color: White *Specify how units are packaged <u>DOZEN</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <b>BOB BARKER</b> PC4234P Estimated # of purchases per year: <u>10 dozen</u>	Each	21.88	37%	13.84
30	<b>BLANKET</b> *40% Wool/60% Synthetic Fiber *54" x 84" *Whipstitched ends *Flame retardant *Color: Dark Grey *Specify how units are packaged <u>CASE</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>24</u>	Brand Name Offered: <b>BOB BARKER</b> RB5484 Estimated # of purchases per year: <u>120 dozen</u>	Each	106.74	12%	94.32

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31	<b>PILLOWS</b> *20" x 26" *Flame resistant *Micro-Guard Cover to kill bacteria and prevent from spreading *Antimicrobial polyester fiberfill *Easy to clean with soap and water	Brand Name Offered: <b>BOB BARKER</b> ANP56 Estimated # of purchases per year: <u>100 each</u>	Each	7.65	11%	6.82
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32	<b>DERBY MATTRESS OR EQUIVALENT</b> *Description: Envelope style, 100% sealed seam, Dartex fabric cover that is warranted to not crack for up to 5 years; fluid resistant breathable vent. Flame retardant mattress suitable for continuous use in correctional environments. If mattress is equivalent specify mattress type <b>Materials: (Must Include)</b> a. Cover must be Dartex Coatings, Inc. PU coated fabric, ISO certified b. 5 year warranty against cracking, dimensional stability c. Flame retardant d. Anti-fungal e. Anti-microbial f. Bacteriostatic g. Virus barrier h. Moisture vapor permeable i. Washable j. Abrasion resistant <b>Construction: (Must Include)</b> a. 100% sealed seam with no stitching b. Breathable vent must resist water, oil, urine, blood and head lice c. Seam strength in excess of 70 lbs. d. Core must be 100% densified polyester, minimum of 12 oz./sq. ft. density e. Envelop style construction, turned edge construction with all seams inside the mattress f. Thickness no less than 4.5"	Brand Name Offered: <b>BOB BARKER</b> JSS25754.5P Estimated # of purchases per year: <u>100 each</u>	Each	82.22	9%	75.15
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	<p>g. Size: 4.5 x 25 x 75 (Must Meet These Tests) Flammability and ASTM testing must meet or exceed the requirements of the following:</p> <p>a. California Technical Bulletin 117 b. California Technical Bulletin 121 c. California Technical Bulletin 129 d. California Technical Bulletin 133 e. California Technical Bulletin 603 f. ASTM E 162-95 Flame Spread Test g. ASTM D 2863-00 (Oxygen Index) Procedure "A" h. ASTM E 662 Smoke Density Test i. Consumer Product Safety Commission, 16 CFR 1632, Standard for the Flammability of Mattresses and Mattress Pads j. Clean ability Standard DS #7566</p> <p>Life Cycle Test: Must pass rotator test of 100,000 cycles with minimum loss of density and no cover damage.</p> <p><b>Test Reports:</b> Where products, materials and procedures are specified by reference to specific tests or standards, bidders must submit 2 copies of certificates from an independent testing laboratory showing satisfactory completion of specified tests and conformance to standards.</p>					
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33	<p><b>MATTRESS MENDING PATCHES</b> *Clear, Water resistant tear patch *3" x 6"</p> <p>*Specify how units are packaged <u>each</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>1</u></p>	<p>Brand Name Offered: <b>BOB BARKER</b> PATCH Estimated # of purchases per year: <u>50 each</u></p>	Each	4.25	59%	1.75
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34	<b>LAUNDRY BAGS</b> *24" W x 36" *White *100% Polyester Mesh *Weight: 4.4 oz per sq. yard * Thickness: 0.040" *High quality, heavy duty cotton wrapped polyester thread *High quality polyester will not break down quickly from detergents or shrivel up * NO Tie Cord  *Specify how units are packaged <u>Dozen</u> (i.e. box, package, dozen, case, bundle) *Specify # of units per package <u>12</u>	Brand Name Offered: <u>BBC</u> <u>EN2436N/C</u> Estimated # of purchases per year: <u>100 dozen</u>	Each	3.32  (39.84/dz)	35%  (30.00/dz)	2.50  (30.00/dz)
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Contractor's Name: BOB BARKER COMPANY INC

Contractor's Phone: 800-334-9880 Fax #: 800-322-7537

Signature of Authorized Contractor's Agent: Allison Wilmesmeier

Title: PRICING SPECIALIST Email: allisonwilmesmeier@bobbarker.com  
ALLISON  
WILMESMEIER





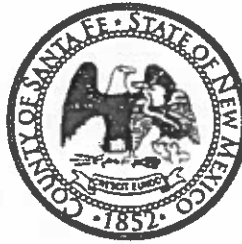




Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## MEMORANDUM

**DATE:** August 23, 2016

**TO:** Board of County Commissioners

**FROM:** Ray Matthew, Transportation Planner *RM*

**VIA:** Robert Griego, Planning Manager *RG*  
Penny Ellis-Green, Growth Management Director *PEG*  
Katherine Miller, County Manager *KM*

**ITEM:** Memorandum of Agreement between Santa Fe County and North Central Regional Transit District To Provide For Contribution Of Funding For The Mountain Trail Route

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### SUMMARY:

On May 31, 2016, the Board of County Commissioners approved the FY 2017 Santa Fe County Transit Plan. Included in that plan is the continued operation of the Santa Fe Mountain Trail Pilot Route for FY 2017 with a proposed County match of \$25,172. The proposed FY 2017 match amount is in the same amount as was paid in FY 2016. The FY 2017 proposed match was approved in the FY 2017 budget through Growth Management Division, Economic Department line item 224-0517-436.50-03.

### BACKGROUND:

The Mountain Trail Pilot Route (Santa Fe Ski Basin) service began Sept. 26, 2015. The NCRTD has developed and implemented a transit service for:

- 1) 2016 Summer season, July through August,
- 2) 2016-2017 Winter season, September through March with 7-day a week service.

At the end of this period, the NCRTD will evaluate the route for continuation of service or service changes. The proposed MOA will provide funds for pilot route operations for FY 2017. The significant aspects of the proposed MOA area as follows:

- NCRTD would be required to provide the County with 15 days advance written notice of service changes {Paragraph 1.A.(3)}.

- Upon termination of the MOA, NCRTD would be required to return the unmatched and unexpended portion of the County's contribution to the County, since the County's funding is specific to the Mountain Trail Route (Paragraph 4).
- The MOA specifies County will transfer \$25,172 FY 2017 economic development funds to the NCRTD no later than October 7, 2016 {Paragraph 1.B.(1)}.

### **STAFF RECOMMENDATION**

Staff recommends approval of the Memorandum of Agreement between Santa Fe County and North Central Regional Transit District To Provide For Contribution Of Funding For The Mountain Trail Route and directs staff to process payment to the NCRTD in the amount of \$25,172.

**MEMORANDUM OF AGREEMENT  
BETWEEN SANTA FE COUNTY  
AND THE  
NORTH CENTRAL REGIONAL TRANSIT DISTRICT  
TO PROVIDE FOR CONTRIBUTION OF FUNDING FOR  
THE MOUNTAIN TRAIL ROUTE**

**THIS MEMORANDUM OF AGREEMENT** (hereinafter referred to as the "Agreement") is entered into on this \_\_\_\_ day of \_\_\_\_\_ 2016, by and between Santa Fe County (hereinafter the "County"), a political subdivision of the state of New Mexico, and the North Central Regional Transit District (hereinafter "NCRTD"), a political subdivision of the state of New Mexico created pursuant to NMSA 1978, Section 73-25-1, et seq.

**RECITALS**

**WHEREAS**, this Agreement confirms the parties' commitment and mutual cooperation on regional transit routes; and

**WHEREAS**, pursuant to the authority in NMSA 1978, Section 73-25-1, et seq., the Regional Transit District Act (the Act) the NCRTD is authorized to finance, construct, operate, maintain and promote an efficient sustainable transportation system; and

**WHEREAS**, in 2015 the County and NCRTD entered into a Memorandum of Understanding to support the launch, on a trial basis, of NCRTD's new "Mountain Trail Route," and

**WHEREAS**, the Mountain Trail Route provides transit service from the City of Santa Fe to the area at the North Easterly end of Hyde Park Road; and

**WHEREAS**, the Mountain Trail Route was successfully launched but still requires further adaptation and modification to optimize service; and

**WHEREAS**, the NCRTD wishes to continue to operate the Mountain Trail Route as a premium service that benefits the citizens of Santa Fe County; and

**WHEREAS**, continued operation of the Mountain Trail Route requires financial contribution and support beyond the NCRTD's current revenue and the County wishes to contribute funding to the NCRTD for the NCRTD's continued operation of the Mountain Trail Route; and

**WHEREAS**, the County will contribute funds to the NCRTD for the continued operation of the Mountain Trail Route in accordance with the terms and conditions of this Agreement.

**NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES AS FOLLOWS:**

**1. SCOPE OF AGREEMENT**

A. The NCRTD shall perform the following services:

- (1) Operate the Mountain Trail Route in accordance with NCRTD's standards, procedures and policies.
- (2) Expend the County's funding contribution solely and exclusively for the operation of the Mountain Trail Route.
- (3) Further develop and implement transit services for a Summer season (July through August) and a Winter season (September through March) with 7-day a week service for the Mountain Trail Route. Nothing in this Agreement shall limit NCRTD's ability to amend the route, dates of operation, hours of operation, or service levels depending on the availability of funding, the viability and safety of the Mountain Trail Route and other criteria as determined by NCRTD. NCRTD shall provide the County with 15 days advance written notice of any such changes in the route, dates of operation, hours of operation, or service levels.

B. The County shall perform the following services:

- (1) Complete a transfer of funds in the amount of \$25,172.00 in FY 2017 economic development funds to the NCRTD no later than October 7, 2016.

**2. EXCESSIVE FUNDS**

The contribution of funds under this Agreement shall not foreclose the right of the County to recover excessive payment in the event Contractor permanently terminates the operation of the Mountain Trail Route during the term of this Agreement or otherwise breaches this Agreement.

**3. EFFECTIVE DATE AND TERM; FUNDING CONTRIBUTION**

This Agreement shall become effective upon the date of last signature by the parties and shall terminate August 31, 2017 unless terminated earlier pursuant to Section 4(Termination) or Section 14 (Appropriations and Authorizations). The parties have the option to mutually agree to extend the term of this Agreement.

If the amount of the contribution stated in 1.B (1) above increases or decreases during the term of this Agreement, the change contribution shall be acknowledged by the parties by an amendment to this Agreement.

#### **4. TERMINATION**

This Agreement may be terminated by either party upon written notice delivered to the other party at least 30 days prior to the intended date of termination. Upon termination of this Agreement, any unmatched and unexpended funds that were contributed by the County under this Agreement shall be returned by NCRTD to the County.

#### **5. ASSIGNMENT**

Neither party shall assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the other party.

#### **6. NO THIRD-PARTY BENEFICIARIES**

The NCRTD and the County are the only parties to this Agreement. Nothing in this Agreement provides any benefit or right, directly or indirectly, to third parties. This Agreement was not intended to and does not create any rights in any persons or party not a party to this Agreement. The parties shall cooperate fully in opposing any attempt by any third person or entity to claim any right, benefit, protection, release, or other consideration under this Agreement.

#### **7. LIABILITY**

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation of requirements or terms or conditions of this Agreement. Each party shall be liable for its own actions in accordance with this Agreement. Neither party shall be responsible for liability incurred as a result of the other party's negligence, acts or omissions in connection with this Agreement. Any liability incurred by the County or NCRTD in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq., as amended.

#### **8. NO WAIVER OF IMMUNITIES, DEFENSES OR PROTECTIONS**

Nothing in this Agreement waives or alters any immunities, defenses or protections provided to the County or NCRTD, and their respective employees, agents, commissioners, board members, or officers. No provision of this Agreement shall be deemed a waiver of immunity, an agreement to indemnify the other party, or to create or effect liabilities between the parties.

#### **9. NEW MEXICO TORT CLAIMS ACT**

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability applicable to the County or NCRTD and their respective employees, agents,

board members, or commissioners or at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

#### **10. ACCOUNTABILITY**

During the term of this Agreement and for a period of six years thereafter, each the parties will maintain accurate and complete records of all disbursements made and monies received by each under this Agreement; and, upon receipt of reasonable written request, each shall make such records available to the other party and to the public, including any federal, state or local authority during regular business hours.

#### **11. AMENDMENT**

This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

#### **12. INTEGRATION CLAUSE**

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

#### **13. APPLICABLE LAW; VENUE**

This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico. The parties agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the State District Court of New Mexico, First Judicial District, Santa Fe County or Rio Arriba County.

#### **14. APPROPRIATIONS AND AUTHORIZATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Santa Fe County Board of County Commissioners and, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorization are not made by the Legislature in this or future fiscal years, this Agreement shall terminate upon written notice being given by the County to NCRTD and the County shall have no duty to compensate the NCRTD for expenditures made in the performance of this Agreement incurred after written notice to the NCRTD is provided by the County pursuant to this paragraph. 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 are available shall be accepted by the NCRTD and shall be final and not subject to challenge by the NCRTD.

The NCRTD will make best efforts to operate the Mountain Trail Route subject to sufficient revenue to support operations. Any and all services by the NCRTD shall be contingent upon sufficient funding. Any decision by NCRTD to terminate or cease operations of the Mountain Trail Route for insufficient funding shall not constitute a breach of this Agreement by NCRTD.

#### **15. REQUIRED APPROVALS**

This Agreement will not be final or binding upon the parties until or unless approved by both parties.

#### **16. FACSIMILE SIGNATURES**

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

#### **17. EQUAL OPPORTUNITY COMPLIANCE**

Each party agrees to abide by all federal and state laws, rules and regulations, pertaining to equal employment opportunity. It is the policy of Santa Fe County to ensure equal employment opportunity to all persons regardless of race, color, age, physical or mental handicap, sex, national origin, ancestry, religion, serious medical condition, sexual orientation, gender identity, political affiliation or spousal affiliation. The County encourages those who do business with the County to practice equal employment opportunity. If a party is found not to be in compliance with this policy during the life of this Agreement, that party agrees to take appropriate steps to correct these deficiencies.

#### **18. INVALID TERM OR CONDITION**

If any term or condition of this Agreement shall be held void, invalid or unenforceable, such provision shall be severed from the remainder of the Agreement and the remainder of this Agreement shall not be affected and shall be valid and enforceable.

#### **19. NOTICES**

Any notice required by this Agreement shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three business days after deposited, postage fully prepaid, registered or certified, in an official receptacle of the U.S. Postal Service.

For NCRTD: Anthony Mortillaro, Executive Director  
North Central Regional Transit District  
1327 North Riverside Drive  
Española, New Mexico 87532

For County: Katherine Miller

Santa Fe County Manager  
PO Box 276  
102 Grant Avenue  
Santa Fe, New Mexico 87504-0276

## 20. COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

The NCRTD and the County shall assure compliance with all applicable state and federal statutes and regulations in the performance of this Agreement.

## 21. AUTHORIZATION

The parties warrant that each signatory to this Agreement is authorized to execute this Agreement on behalf of its respective party.

## 22. MERGER AND INTEGRATION

This Agreement contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes any prior agreements, understandings or negotiations whether written or oral, including the prior MOU (Santa Fe County Memorandum of Understanding No. 2015-0354-LF/BT, which by its own terms expires September 30, 2016.

IN WITNESS WHEREOF the parties have duly executed this Agreement effective on the date of last signature by the parties.


**SANTA FE COUNTY:**

\_\_\_\_\_  
Miguel M. Chavez, Chair  
Santa Fe Board of County Commissioners

ATTESTATION:

\_\_\_\_\_  
Geraldine Salazar  
Santa Fe County Clerk


Approved as to form:

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

Date: 8-18-16



Finance Department:

  
Carole H. Jaramillo  
Finance Director

Date: 8/18/16

**NORTH CENTRAL REGIONAL TRANSIT DISTRICT:**

\_\_\_\_\_  
Daniel Barrone  
NCRTD Chair

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Peter A. Dwyer  
NCRTD Attorney

Date: \_\_\_\_\_





