

Henry P. Roybal  
Commissioner, District 1

Miguel Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

## **MEMORANDUM**

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

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

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

**VIA:** *Katherine Miller, County Manager*  
*Jeff Trujillo, ASD Director*  
*Michael Kelley, Public Works Department Director*

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

**Request Approval of Amendment No. 1 to Indefinite Price Agreement No. 2015-0005-A-PW/PL with San Bar Construction and Agreement No. 2015-0005-B-PW/PL with Highway Supply, Removing the \$250,000 Compensation Threshold Each, Exclusive of GRT for Road Striping and Request Signature Authority be Granted to the County Manager to Execute Purchase Orders. (Bill Taylor, Purchasing Division)**

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**SUMMARY:**

The Purchasing Division and the Public Works Department are requesting County Manager signature approval on the San Bar Construction and Highway Supply Company purchase orders for the Road Striping Services Agreement No. 2015-0005-A-PW/PL and Agreement No. 2015-0005-B-PW/PL.

**BACKGROUND:**

Santa Fe County Public Works has approximately 169 miles of roadway that require road stripping services.

The Purchasing Division issued an Invitation for Bid (IFB) # 2015-0005-PW/PL in July 2014 for stripping services. Two bids were received and awarded to from the following Bidders:

San Bar Construction, Albuquerque, NM  
Highway Supply, Albuquerque, NM

The two Indefinite Price Agreements were executed in August 2014 containing a Compensation cap of \$250,000 each. The roads division has purchases that are approximately \$140,000 per year. The Purchasing Division is requesting to remove the Compensation cap of \$250,000 and only utilize the pricing as defined in Exhibit A.

**ACTION REQUESTED:**

BCC approval of Amendment No. 1 to Agreement No. 2015-0005-A-PW/PL and 2015-0005-B/PW/PL for road stripping services, removing the \$250,000 compensation threshold each and request signature authority be granted for the County Manager to execute any purchase orders.

Attached:

Exhibit A- San Bar Construction  
Exhibit B- Highway Supply, LLC

**AMENDMENT NO. 1  
TO AGREEMENT BETWEEN SANTA FE COUNTY  
AND SAN BAR CONSTRUCTION CORP., FOR ROAD STRIPING SERVICES**

**THIS AMENDMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **Santa Fe County**, hereinafter referred to as the "County," and **San Bar Construction Corp.**, 9101 Broadway SE, Albuquerque, New Mexico 87105, hereinafter referred to as the "Contractor."

**WHEREAS**, in 2014 the County and Contractor entered into a Price Agreement No. 2015-0005-A-PW/PL (the Agreement) for the Contractor's provision of road striping services; and

**WHEREAS**, Article 3.A.2) of the Agreement limits the amount of compensation payable to the Contractor for the term of the Agreement; and

**WHEREAS**, Article 17 (Amendment) allows the parties to amend the Agreement by an instrument in writing executed by the parties; and

**WHEREAS**, the County wishes to amend the Agreement to remove the limitation or cap on the amount of compensation payable to the Contractor for this indefinite quantity Price Agreement.

**NOW, THEREFORE IT IS MUTUALLY AGREED TO BY THE PARTIES:**

1. Article 3.A.2) of the Agreement is amended by deleting 3.A.2), 3) and 3.B, 3.C, and 3.D in their entirety and replace with the following:

- 2) Purchase. Exhibit A of this Price Agreement is the prices for the Contractor's services and deliverables. Exhibit A and the attachment to Exhibit A also indicate any specifications required for the items that are subject of this Price Agreement. 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 described on Exhibit A. All orders issued hereunder must bear both an order number and the number of this Price Agreement No. 2015-0005-A-PW/PL.

2. All provisions of the Agreement not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment as of the last date of 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 8-26-16

Finance Department:

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

Date 8/24/16

**CONTRACTOR**

\_\_\_\_\_  
Signature

Date \_\_\_\_\_

\_\_\_\_\_  
Printed name and title

**SANTA FE COUNTY  
PRICE AGREEMENT  
FOR ROAD STRIPING SERVICES**

THIS AGREEMENT is made and entered into this 13th day of August 2014 by and between **Santa Fe County**, a New Mexico political subdivision, (hereinafter referred to as "the County") and **San Bar Construction Corporation**, located at 9101 Broadway SE, Albuquerque, N.M. 87105, a corporation authorized to do business in the State of New Mexico, (hereinafter referred to as "**Contractor**").

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

**1. DEFINITIONS**

- A. "Using Department or Department" shall mean a Department or elected official's office of Santa Fe County.
- B. "Purchase Order" shall mean a fully executed Purchase Document issued by the Using Department that specifies the services to be provided by the Contractor under the terms and prices of this Price Agreement.
- C. "Price Agreement" means this indefinite quantity Price Agreement which requires the Contractor to provide road striping services to a Using Department which issues a Purchase Order.
- D. "Completion Date" means a date certain for completion of a road striping project by the Contractor as indicated by the Using Department in a Purchase Order.

**2. SERVICES TO BE PROVIDED**

- A. **Materials and Services on Exhibit A.** The Using Department may request Contractor's services which are the subject of this Price Agreement. **The services ordered must be a service listed as a bid item on Exhibit A to this Agreement and all services must meet the Specifications for Materials and Application which is attached to Exhibit A.** All orders issued hereunder must bear the purchase order number and number of this Price Agreement #2015-0005-A-PW/PL.
- B. **Quantities.** It is understood that this is an indefinite quantity Price Agreement and the County may purchase any quantity of the services listed on Exhibit A on an as-needed basis. No guarantee or warranty is made or implied, by either the County or the Using Department that any order for any minimum, maximum or otherwise definite quantity will be issued under this Price Agreement. Quantities of service may vary depending on the season. When the Using Department requests services and a Purchase Order is issued, the Contractor is required to accept the order and furnish and complete the services as requested at the prices listed on Exhibit A, subject to any applicable percentage price reductions or liquidated damages.

- C. **Specifications.** The services and materials furnished hereunder shall conform to the requirements of the technical specifications and standards indicated in Exhibit A. Orders issued pursuant to this Price Agreement must show the applicable Price Agreement service, quantity and price. Any materials used in providing the services under this Price Agreement must meet or exceed the manufacturer's specifications.
- D. **Time for Completion; Liquidated Damages.** Time is of the essence for the purposes of this Price Agreement. In the event the Contractor fails to complete a road stripping project by the Completion Date indicated, and as may be amended, by the Using Department, the Contractor shall incur liquidated damages in the amount of One Hundred Dollars (\$100.00) per calendar day from the Completion Date until the date the Contractor completes the road stripping project.

### 3. **COMPENSATION AND INVOICING**

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

- 1) County shall pay to the Contractor in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A.
- 2) The total amount payable to the Contractor under this Agreement shall not exceed two hundred fifty thousand dollars (\$250,000.00) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
- 3) This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. The County will notify the Contractor when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing.

B. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within twenty one (21) days after the County receives an undisputed request for payment, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within twenty

one (21) days after the County receives an undisputed request for payment, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

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

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

#### 4. PAYMENT

All payments under this Price Agreement are subject to the following provisions:

A. Inspection. Inspection and acceptance of all materials and services ordered may be made prior to Contractor's commencement of services, during Contractor's performance, or at the completion of Contractor's performance of services. Materials or services rejected for non-conformance with specifications shall be removed at the Contractor's risk and expense promptly after notice of rejection and re-completed, or in the event of non-conforming materials and application, the Using Department may impose a percentage reduction in the price.

B. Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Using Department shall determine if the materials and services meet specifications, and may accept the services if all components of the service meet specifications. No payment shall be made for any service until the completed service has been accepted in writing by the Using Department. Unless otherwise agreed upon between the Using Department and the Contractor, within thirty (30) days from the Contractor's completion of services, the Using Department shall issue a written certification of complete or partial acceptance or rejection of the materials or services. The time period shall begin at the time Contractor notifies the Using Department that services are complete and Contractor has achieved substantial completion. Unless the Using Department gives notice of rejection within the specified time period, the materials and services 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. Invoices. Depending on the number of working days scheduled for completion of a road striping project, the Contractor may submit invoices for payment no more frequently than weekly, monthly, or upon completion of services. The Contractor's invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number; description of supplies of services; quantities; unit price; and extended totals. Separate invoices shall be rendered for each road striping project. Invoices must be submitted to the Using Department. All prices and charges by the Contractor shall be consistent with the prices indicated in Exhibit A.

E. Payment of Invoices. Upon written certification from the Using Department that completion of road striping services has been completed and accepted, payment shall be tendered to the Contractor within net twenty one (21) days. If the payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

F. Taxes. For each invoice submitted to the Using Department, Contractor shall indicate applicable gross receipts taxes or local option taxes on the invoice and tax should be shown as a separate item to be paid. The payment of taxes for any money received under this Agreement shall be the Contractor's federal and State of New Mexico tax identification number(s). If the Using Department is exempt from payment of New Mexico gross receipts tax or local option taxes, the Using Department shall provide the Contractor with written evidence of such exemption.

## 5. EFFECTIVE DATE AND TERM

This Agreement shall become effective on the date first written above and shall terminate four (4) years later, unless earlier terminated pursuant to Section 7 (Termination) or Section 8 (Appropriations and Authorizations).

## 6. DEFAULT

A. The failure of the Contractor to perform and/or complete services as requested by the Using Department shall constitute a default under this Price Agreement. The County reserves the right to cancel all or any part of any orders placed under this Price Agreement without cost to the County if the Contractor's materials or services fails to meet the specifications or requirements of this Price Agreement. The Contractor may be excused from performance under this Price Agreement if the Contractor's failure to perform or complete services are the result of causes beyond the control and without the fault or negligence of the Contractor, such causes include, but are not limited to, acts of God or public enemy, acts of the County or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the County shall determine that the materials or services to be furnished by the subcontractors were obtainable from other sources in sufficient time to permit the Contractor and subcontractor to meet the required schedule.

B. The County shall cancel all or any part of any order without cost to the County if the Contractor fails to meet material provisions of an order.

## 7. TERMINATION

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



within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

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

## 8. APPROPRIATIONS AND AUTHORIZATIONS

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

## 9. INDEPENDENT CONTRACTOR

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

## 10. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

## **11. SUBCONTRACTING**

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

## **12. PERSONNEL**

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

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

## **13. RELEASE**

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

## **14. CONFIDENTIALITY**

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

## **15. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT**

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

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

## **16. CONFLICT OF INTEREST**

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

**17. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED**

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

**18. ENTIRE AGREEMENT; INTEGRATION**

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

**19. NOTICE OF PENALTIES**

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

**20. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

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

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

**21. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

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

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

C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree

that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district courts of New Mexico, located in Santa Fe County.

## **22. RECORDS AND INSPECTIONS**

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

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

## **23. INDEMNIFICATION**

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

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

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

## **24. SEVERABILITY**

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

## 25. NOTICES

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

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

To the Contractor: San Bar Construction Corporation  
9101 Broadway SE  
Albuquerque, New Mexico 87105

## 26. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

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

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

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

## 27. FACSIMILE SIGNATURES

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

## 28. NO THIRD-PARTY BENEFICIARIES

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

## 29. INSURANCE

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

B. General Liability Insurance, Including Automobile. The Contractor shall procure

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

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

### **30. PERMITS, FEES, AND LICENSES**

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

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

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

### **32. CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

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

### **33. SURVIVAL**

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

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

**SANTA FE COUNTY:**

Katherine Miller  
Katherine Miller  
Santa Fe County Manager

8.7.14  
Date

**APPROVED AS TO FORM**

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

8/5/14  
Date

**FINANCE DEPARTMENT APPROVAL**

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

8/5/14  
Date

**CONTRACTOR:** San Bar Construction Corp.

David A. Sanchez  
(Signature) Date  
David A. Sanchez  
(Print Name)

8/13/14  
Date

President  
(Print Title)

FEDERAL IDENTIFICATION NUMBER: 85-0378983







IFB #2015-0005-PW/PL

**BID SHEET**  
**Road Striping Services**  
**IFB #2015-0005-PW/PL**

Please offer your best price for all bid items (materials, labor and services) based on the unit price indicated below. Include signature at the bottom as stated. Be advised that award may be made without discussion with Bidders.

Offeror's Organization Name: San Bar Construction Corp.

#	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	WRITTEN UNIT PRICE
1	Placement of reflectorized high-durable acrylic traffic painted markings installed at 22 to 25 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-TPCWBACRHB ROHM & HASS HD-21 type II emulsion or DOW DT 400 NA emulsion). To include shadow vehicle with warning lights and arrow board. To include Mobilization required to complete work and all requisite traffic control. Labor and Material.	1,234,000 LF	LF	0.0683
2	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-TPCWBACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). To include shadow vehicle with warning lights and arrow board. To include Mobilization required to complete work and all requisite traffic control. Labor and Material.	1,234,000 LF	LF	0.0452

3	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-TPCWBA CRHB-BLEND blend of resins to include ROHM & Hass HD 21 type II emulsion or DOW DT 400 NA Emulsion). To include shadow vehicle with warning lights and arrow board. To include Mobilization required to complete work and all requisite traffic control. Labor and Material.	1,234,000 LF	LF	0.0452
4	Mobilization within Santa Fe County for emergency urgent striping work per direction of the Traffic Manager.	1,500 MILES	MILE	1.00
5	Obliteration of existing long line pavement markings within Santa Fe County, 4" stripe.	5,000 LF	LF	0.50
6	Obliteration of existing pavement markings by the square foot within Santa Fe County.	200 SF	SF	2.25
7	Mobilization for obliteration of pavement markings within Santa Fe County.	100 MILES	MILE	3.00
8	Layout of passing/no-passing zones, unmarked roadways, and auxiliary lanes to include left and right lanes, and acceleration and deceleration lanes within Santa Fe County. This item will be measured by the linear foot of center line stripe, mobilization included.	100,000 FT	FT	0.03
9	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-	250 SF	SF	3.75

	TPCWACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). (not limited to crosswalks, stop bars, legends, symbols, and curb painting) Quantity: 0 – 250 SQ FT.			
10	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M- TPCWACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). (not limited to crosswalks, stop bars, legends, symbols, and curb painting) Quantity: 251 – 500 SQ FT.	500 SF	SF	3.50
11	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M- TPCWACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). (not limited to crosswalks, stop bars, legends, symbols, and curb painting) Quantity: 501 SQ FT and over.	1,000 SF	SF	3.00
12	Placement of reflectorized high-durable acrylic traffic painted markings installed at 22 to 25 mils wet film thickness within Santa Fe County, 6 IN stripe, white and yellow (M- TPCWACRHB ROHM & HAAS HD-21 type II emulsion or DOW DT 400 NA emulsion). To include shadow vehicle with warning lights and arrow board. Mobilization required to complete work and all requisite traffic	1,234,000	LF	0.1034

	control. Labor and material.			
13	Mobilization required to complete the work for reflectorized traffic painted pavement markings (one way, one-time continuous travel within the state of NM by contractors crew to reach each site. Mileage to be verified by map miles by shortest or most reasonable routs of travel).	1,000 MILES	MILE	5.00
14	Reflectorized painted curb markings/median noses – Quantity 0 – 250 SF.	125 SF	SF	4.00
15	Reflectorized painted curb markings/median noses – Quantity 250 – 500 SF.	500 SF	SF	3.75
16	Reflectorized painted curb markings/median noses – Quantity 501 – 1,000 SF.	1,000 SF	SF	3.25
17	Removal of painted curb markings ultra high pressure water blasting 40k +	500 SF	SF	3.50
18	One way mobilization for reflectorized paint curb markings or removal.	150 MILES	MILE	3.00
19	Furnish MUTCD compliant traffic control for reflectorized paint curb markings or removal.	75 HOURS	HOUR	60.00
20	Surcharge for Red paint, including 4" standard stenciled wording for Items 9, 10, & 11.	750 SF	SF	0.50
21	Surcharge for Green paint, including 4" "LOADING ZONE" for Items 9, 10 & 11.	750 SF	SF	0.50
22	Surcharge for Blue paint, including 4" standard stenciled wording for Items 9, 10, & 11.	750 SF	SF	0.50

23	Surcharge for Grey paint on Items 9, 10 & 11.	750 SF	SF	0.50
24	Sweeping, when requested for Santa Fe County needs. This item to be measured by the linear foot of the stripe to be swept. Sweeping shall be for the lane line where pavement markings are to be directly applied, not the entire roadway surface. For roadways with a centerline stripe, the centerline will be considered one lane line. Note: Cases where debris requires more than one pass shall be considered incidental to the measurement.	100,000	LF	0.03
25	Mobilization for sweeping within Santa Fe County.	100	MILE	3.00

**\*ALL PRICES ARE EXCLUSIVE OF GROSS RECEIPTS TAX**

**\*\*BIDS ARE ALL OR NONE\*\***

BIDDER'S SIGNATURE: \_\_\_\_\_





## ATTACHMENT TO EXHIBIT A

### SPECIFICATIONS

#### 1. OBJECTIVE DESCRIPTION - TECHNICAL SPECIFICATIONS FOR MATERIALS AND APPLICATIONS:

Santa Fe County has approximately 169 miles of roadway and requests bids from firms of interest for the purpose of obtaining a four (4) year Price Agreement for County-wide road striping services including costs for labor and materials.

Contract will be awarded on an all-or-none basis: Bidders must bid prices on all bid items listed on the bid sheet.

The prices given by Contractor shall represent the prices for materials and services to be provided by the Contractor for the materials and services provided under the Price Agreement. It is understood that the Contractor is responsible for payment of all costs of labor, equipment, tools, materials, federal tax, permits, licenses, fees and any other items necessary to complete the services under the Price Agreement.

##### A. Road striping technical specifications for acceptable standards

- a) Tolerance for application of paint and beads: The finished line shall be smooth, aesthetically acceptable and free from undue waviness. The end of the line shall be square and free from splatter, dribble or trailings. Centerline and edge lines shall be four inches (4") to six inches (6") wide. White channelizing lines for left turn bays shall be four inches (4") to eight inches (8") wide. Line width variation of more than one quarter inch (1/4") shall require rework. For standard waterborne acrylic paint, painted lines shall be installed at 16 mils wet film thickness or at a minimum rate of 19.75 gallons of paint per mile of solid four inch (4") line or 4.94 gallons of paint per mile of broken four inch (4") line, or in accordance with manufacturer's recommendations for successive generations of pavement materials. The County shall perform spot checks for wet material thickness and compliance and require inspection of quantities of material desired.

For standard and waterborne acrylic paint, the following table correlates wet mil thickness for four inch (4") line paint volume and line length.

Paint (Gal/Mil)	Paint Thickness (Mil)	Paint (Ft/Gal)
19.75	18	267
18.65	17	283
17.55	16	300
16.45	15	320

15.36	14	344
14.26	13	370
13.16	12	401
12.06	11	437
10.96	10	481
9.86	9	535

- b) Hi-build acrylic paints: Required to be installed at 22 to 25 mils wet film thickness, the minimum rate is 24.14 to 27.43 gallons of paint per mile of solid four inch (4") line or 6.04 to 6.86 gallons of paint per mile of broken four inch (4") line. Application rates will be adjusted as necessary to conform to manufacturer's recommendations for successive generations of pavement materials. The County shall perform spot checks for wet material thickness and compliance and require inspection of quantities of material desired.

For Hi-build acrylic paints, the following table correlates wet mil thickness for four inch (4") line paint volume and line length.

Paint (Gal/Mil)	Paint Thickness (Mil)	Paint (Ft/Gal)
30.72	28	172
29.62	27	178
28.53	26	185
27.43	25	193
26.33	24	201
25.23	23	209
24.14	22	219
23.04	21	229
21.94	20	241
20.85	19	253
19.75	18	267
18.65	17	283
17.55	16	300
16.45	15	320
15.36	14	344
14.26	13	370
13.16	12	401

For striping below acceptable standards, the County will require either rework by the contractor at no charge or impose a percentage reduction in price in accordance with Table 704.5.1:1 of the NMDOT Standard Specifications for Highway and Bridge Construction, 2007 Ed.



The space or gap between double yellow lines shall be four inches (4") clear. A reduction in pay or rework shall be required for a gap less than 3.75 inches or greater than 4.25 inches.

No time extensions will be allotted to the striping schedule for each road striping services requested by the County to accommodate rework required due to deficient striping determined to be caused by the contractor.

Glass reflectorized beads shall be applied on the wet paint at a minimum rate of six (6) pounds to each gallon of paint, except where specified at a different rate in the material specification. All painted lines are to receive glass beads at this rate. Any line discovered to have been applied without glass beads shall be restriped by the contractor within twenty-four (24) hours.

Any line discovered to have been applied with insufficient quantities of glass beads will be cause for the County to require either rework by the contractor at no charge or impose a percentage reduction in price in accordance with Table 704.5.1 of Standard Specifications for Highway and Bridge Construction, 2007 Ed.

Pavement markings not applied in accordance with plans and specifications shall be subject to the price reduction schedule consistent with the NMDOT Specifications (704) for Highway and Bridge Construction. Any error in striping pattern deemed by the County to be the responsibility of the contractor shall be corrected at the contractor's expense using approved methods. Covering or obliterating any stripe with black paint is strictly prohibited.

The County shall have the right and authority to reject materials or workmanship by the contractor. Materials and workmanship may be rejected for failure to meet specifications or to perform satisfactorily upon application, or for failure to be delivered or completed at the time specified. Contractor will not be compensated for material or workmanship that is rejected. The County shall not be liable to the contractor in any way for any damages of any nature whatsoever resulting from the rejection of the materials or workmanship. When materials or workmanship are rejected, the contractor shall be informed of the reason for the rejection in writing as soon as practical after the rejection. The contractor agrees to indemnify the County for any and all losses incurred due to delay in shipment or installation, or rejection of material or workmanship.

Tolerance for striping obliteration: striping requiring obliteration shall be removed using only water blasting in accordance with the latest standards and specifications. Stripe obliteration shall not deform or damage the roadway surface. The contractor shall collect all debris from the obliteration process and dispose of the material in a legal environmentally sound manner. **Note:** Contractor will not be compensated for obliteration of improperly installed or rejected pavement markings.

## 2. SCOPE OF WORK TO BE COMPLETED UNDER THE PRICE AGREEMENT:

The Contractor shall:

- A. Provide competent supervision and skilled personnel to carry on all work in progress.
- B. Furnish all equipment, labor, material and tools required to perform the work specified. The contractor shall maintain during the entire term of the Price Agreement, equipment sufficient, in operational conditions and capacity to efficiently perform the work and services required by the Agreement. Downtime due to equipment failure shall not exceed one (1) day. If an excess of one (1) day downtime occurs, the Contractor shall notify the County of the problem and estimated downtime. The County reserves the right, if more than one (1) day of unexcused or unauthorized downtime occurs, to have the roads striped by a different contractor or vendor.
- C. Provide mobilization for routine, non-emergency striping and such mobilization will be considered incidental to the work.
- D. Have the sole responsibility for all clean-up of materials resulting from the transportation of materials and services performed under the Price Agreement.
- E. Be responsible for damage resulting from paint materials on public vehicles.
- F. Abide by the New Mexico State Highway and Transportation Department Standard Specifications for Road and Bridge Construction, 2007 Ed., Division 700 on traffic control devices. Contractor shall also conform to the Manual of Uniform Traffic Control Devices, current edition, including Part VI-Traffic Control for Street and Highway Construction and Maintenance Operations.
- G. Comply with all local, state, and federal laws governing safety, health and sanitation. The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions necessary to protect the life and health of employees on-the-job and the safety of the public, and to protect property in connection with the performance of the services covered by the Price Agreement.
- H. Submit a traffic control plan to the County two (2) weeks prior to starting any road striping work, the County shall review and approve the proposed signing, location of signs and location and type of all traffic channelization devices to be utilized prior to the beginning of operations. All lane closures and detours must also be approved by the County. The County may also require that the contractor provide sufficient flagmen, additional shadow vehicles and/or truck mounted attenuators when deemed necessary for safety and/or to allow adequate time for material to cure to non-tracking state. To assist with the

traffic control during operations, the contractor shall also remove or cover temporary signing that is not required during non-working hours and nighttime hours. The sequential flashing arrow unit, when required, shall be a NMDOT approved product. At least one (1) lane shall be kept open to traffic, with adequate flagging, when working on a two-lane road; treated road roadways shall be re-opened to traffic during nighttime or non-working hours. All traffic control costs shall be incidental and included in the cost of the bid items.

- I. Be responsible for restriping any areas where vehicles have tracked through fresh paint.
- J. Disposal of Waste Material: The Contractor shall be responsible for the disposal of all waste material associated with any and all activities covered in this Price Agreement. All waste shall be transported to an appropriate facility for proper handling and disposal. Documentation of the treatment of all waste material shall be provided to the County by the Contractor.

The Contractor shall provide the County with a spill recovery plan including: name, address, and phone number for the person designated as the contractor's response coordinator; as well as the name, address, and phone numbers of persons qualified, capable and on-call to do any cleanup.

- K. Material Storage: All material and material containers shall be stored according to manufacturer requirements. No material or storage containers shall be stored, staged or left for any period of time within the right-of-way of any County road.

Materials and equipment may be stored at County patrolled yards when authorized by the County.

For each road striping project, the Contractor shall submit a complete and detailed quality control/quality assurance plan. The plan shall include:

- Detailed Quality Control/Quality Assurance Program
- Materials testing procedures
- In-place field testing
- Weather monitoring and reporting methods
- Billing format and frequency
- Reporting methods and frequency
- Scheduling format, method and frequency
- Request for changes (i.e., previously submitted schedules, specified materials, etc.)

- L. Work Schedule: Except as otherwise approved in writing by the County road striping work shall be performed during daylight hours, Monday through

Friday. No work shall be performed on County holidays or on weekends unless otherwise approved by the County. The Contractor shall avoid work during "rush hour" traffic in urban areas, unless prior approval is received from the County. Prior to commencing with any work, the contractor shall receive written or verbal notification to proceed from the County. A list of work required by the County shall be provided to the contractor. The Contractor shall provide a tentative schedule for performance of the work requested by the County for approval; the Contractor shall complete the work in accordance with the approved schedule. The Contractor shall provide twenty-four (24) hour notice to the County of a location to be striped. When the work is to be performed at the beginning of work week (Monday), the Contractor shall provide notice by Friday of the preceding week. Any additional work requested by the County shall require a revised schedule, to include any additional work, for approval by the County. Exceptions may be granted in writing by the County upon approval of a revised written schedule for performance of the remaining work. Some projects may require urgent attention and completion within twenty-four (24) hours, and may be required in addition to the approved schedule of work. The contractor shall report weekly to the County the total number of linear feet of markings applied, material used and location(s) of completed work. Upon notification, the County shall conduct a final inspection. Work found to be in conformance with the Price Agreement shall be reviewed for acceptance by the County and scheduled for payment.

Payment for non-conforming work shall be withheld until such a time as the work is brought into conformance with the Price Agreement and accepted by the County.

The County will inspect operations at its discretion. The Contractor is still responsible for the project being completed in accordance with all plans schedules and technical specifications. The County has the authority to stop the contractor's work if it determines that the contractor's services are not in compliance with plans, schedules and technical specifications. Such work will be re-done at the contractor's expense to the satisfaction of the County.

The County, at its discretion, will measure the retro-reflectivity markings using 30-m geometry. The markings will be measured within thirty (30) days of application. Except where specified in the material specification, the minimum retro-reflective value for white markings is 250 mcd/m<sup>2</sup>/lux the minimum retro-reflective value for yellow markings is 150 mcd/m<sup>2</sup>/lux. Measurements will be taken every ¼ (.25) miles on average will be calculated for every mile. Average values that fall from one to ten percent (1-10%) below minimum values will result in a ten percent (10%) price reduction for that mile of roadway. Average values that fall from eleven to twenty-five percent (11-25%) minimum values will result in a twenty-five percent (25%) price reduction for that mile of roadway. Average values that fall greater than

twenty –five (25%) below minimum values will require restriping of that mile of roadway at no additional cost to the County.

To ensure timely placement of pavement markings, the following delivery times shall be met from the date of the work order:

<b>Pavement Markings Linear Feet</b>	<b>Required Delivery Times* Number of Working Days</b>
0 – 13,200,000	15
13,200,001 – 26,400,000	30
26,400,001 – 39,600,000	60
39,600,001 and over	**

\*The Contractor shall be subject to a price reduction equal to two percent (2%) of the total purchase order, per day for each working day the pavement markings are not in place as specified above.

\*\*To be determined by the County based on actual footage.

The County has the authority to issue purchase orders to a different contractor or vendor if the Contractor indicates that the work cannot be delivered or completed in accordance with the Price Agreement.

- M. **Performance Bond:** Prior to the issuance of a purchase order, the successful contractor(s) must provide a performance bond and a labor and materials payment bond each equal to one hundred percent (100%) of the total purchase order for a specific project. Said bonds must be provided to the Public Works Department within ten (10) calendar days after the County's issuance of a Purchase Order.

The performance bond is to secure the County for losses and damages sustained by reason of default of the Price Agreement by the Contractor. The labor and materials payment bond is to provide for the contractor's payment of sub-contractors and suppliers. The bond cost shall be included in the price of the bid items.

N. **REQUIREMENTS and/or QUALIFICATIONS:**

No person shall act as a contractor without a license issued by the Construction Industries Division (CID) classified to cover the type of work to be undertaken. No work shall be performed unless the contractor has a valid license issued by the Construction Industries Division to perform the type of work to be undertaken, Section 60-13-12, NMSA 1978.

All bid items, materials, and installation shall meet (or exceed) the NMDOT Current Standard Specifications for Highway and Bridge Construction, plus

any supplemental or standard specifications and standard (serial) drawings (to the extent they may be pertinent to the work being performed) established by NMDOT.

All items provided and work performed under this Price Agreement must comply with all applicable requirements of the most recent Manual on Uniform Traffic Control Devices (MUTCD).

**AMENDMENT NO. 1  
TO AGREEMENT BETWEEN SANTA FE COUNTY  
AND HIGHWAY SUPPLY, LLC, FOR ROAD STRIPING SERVICES**

**THIS AMENDMENT** is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **Santa Fe County**, hereinafter referred to as the "County," and **Highway Supply, LLC**, 6221 Chappell Road NE, Albuquerque, New Mexico 87113, hereinafter referred to as the "Contractor."

**WHEREAS**, in 2014 the County and Contractor entered into a Price Agreement No. 2015-0005-B-PW/PL (the Agreement) for the Contractor's provision of road striping services; and

**WHEREAS**, Article 3.A.2) of the Agreement limits the amount of compensation payable to the Contractor for the term of the Agreement; and

**WHEREAS**, Article 17 (Amendment) allows the parties to amend the Agreement by an instrument in writing executed by the parties; and

**WHEREAS**, the County wishes to amend the Agreement to remove the limitation or cap on the amount of compensation payable to the Contractor for this indefinite quantity Price Agreement.

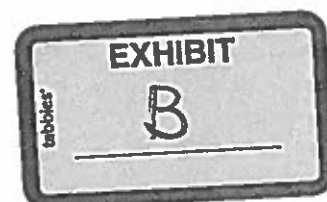
**NOW, THEREFORE IT IS MUTUALLY AGREED TO BY THE PARTIES:**

1. Article 3.A.2) of the Agreement is amended by deleting 3.A.2), 3) and 3.B, 3.C, and 3.D in their entirety and replace with the following:
  - 2) Purchase. Exhibit A of this Price Agreement is the prices for the Contractor's services and deliverables. Exhibit A and the attachment to Exhibit A also indicate any specifications required for the items that are subject of this Price Agreement. 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 described on Exhibit A. All orders issued hereunder must bear both an order number and the number of this Price Agreement No. 2015-0005-B-PW/PL.
2. All provisions of the Agreement not specifically amended or modified by this Amendment No. 1 shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have executed this Amendment as of the last date of 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 Feb 24/16

Finance Department:

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

Date 9/24/16

**CONTRACTOR**

\_\_\_\_\_  
Signature

Date \_\_\_\_\_

\_\_\_\_\_  
Printed name and title



**SANTA FE COUNTY  
PRICE AGREEMENT  
FOR ROAD STRIPING SERVICES**

**THIS AGREEMENT** is made and entered into this 13<sup>th</sup> day of August 014 by and between **Santa Fe County**, a New Mexico political subdivision, (hereinafter referred to as "the County") and **Highway Supply, LLC**, located at 6221 Chappell Road NE, Albuquerque, N.M. 87113, a corporation authorized to do business in the State of New Mexico, (hereinafter referred to as "**Contractor**").

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

**1. DEFINITIONS**

- A. "Using Department or Department" shall mean a Department or elected official's office of Santa Fe County.
- B. "Purchase Order" shall mean a fully executed Purchase Document issued by the Using Department that specifies the services to be provided by the Contractor under the terms and prices of this Price Agreement.
- C. "Price Agreement" means this indefinite quantity Price Agreement which requires the Contractor to provide road striping services to a Using Department which issues a Purchase Order.
- D. "Completion Date" means a date certain for completion of a road striping project by the Contractor as indicated by the Using Department in a Purchase Order.

**2. SERVICES TO BE PROVIDED**

- A. **Materials and Services on Exhibit A.** The Using Department may request Contractor's services which are the subject of this Price Agreement. **The services ordered must be a service listed as a bid item on Exhibit A to this Agreement and all services must meet the Specifications for Materials and Application which is attached to Exhibit A.** All orders issued hereunder must bear the purchase order number and number of this Price Agreement #2015-0005-B-PW/PL.
- B. **Quantities.** It is understood that this is an indefinite quantity Price Agreement and the County may purchase any quantity of the services listed on Exhibit A on an as-needed basis. No guarantee or warranty is made or implied, by either the County or the Using Department that any order for any minimum, maximum or otherwise definite quantity will be issued under this Price Agreement. Quantities of service may vary depending on the season. When the Using Department requests services and a Purchase Order is issued, the Contractor is required to accept the order and furnish and complete the services as requested at the prices listed on Exhibit A, subject to any applicable percentage price reductions or liquidated damages.

C. **Specifications.** The services and materials furnished hereunder shall conform to the requirements of the technical specifications and standards indicated in Exhibit A. Orders issued pursuant to this Price Agreement must show the applicable Price Agreement service, quantity and price. Any materials used in providing the services under this Price Agreement must meet or exceed the manufacturer's specifications.

D. **Time for Completion; Liquidated Damages.** Time is of the essence for the purposes of this Price Agreement. In the event the Contractor fails to complete a road stripping project by the Completion Date indicated, and as may be amended, by the Using Department, the Contractor shall incur liquidated damages in the amount of One Hundred Dollars (\$100.00) per calendar day from the Completion Date until the date the Contractor completes the road stripping project.

### 3. **COMPENSATION AND INVOICING**

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

- 1) County shall pay to the Contractor in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A.
- 2) The total amount payable to the Contractor under this Agreement shall not exceed two hundred fifty thousand dollars (\$250,000.00) exclusive of gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
- 3) This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. The County will notify the Contractor when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing.

B. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within twenty one (21) days after County receives an undisputed request for payment, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within twenty one

(21) days after the County receives an undisputed request for payment, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

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

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

#### 4. PAYMENT

All payments under this Price Agreement are subject to the following provisions:

A. Inspection. Inspection and acceptance of all materials and services ordered may be made prior to Contractor's commencement of services, during Contractor's performance, or at the completion of Contractor's performance of services. Materials or services rejected for non-conformance with specifications shall be removed at the Contractor's risk and expense promptly after notice of rejection and re-completed, or in the event of non-conforming materials and application, the Using Department may impose a percentage reduction in the price.

B. Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Using Department shall determine if the materials and services meet specifications, and may accept the services if all components of the service meet specifications. No payment shall be made for any service until the completed service has been accepted in writing by the Using Department. Unless otherwise agreed upon between the Using Department and the Contractor, within thirty (30) days from the Contractor's completion of services, the Using Department shall issue a written certification of complete or partial acceptance or rejection of the materials or services. The time period shall begin at the time Contractor notifies the Using Department that services are complete and Contractor has achieved substantial completion. Unless the Using Department gives notice of rejection within the specified time period, the materials and services 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. Invoices. Depending on the number of working days scheduled for completion of a road striping project, the Contractor may submit invoices for payment no more frequently than weekly, monthly, or upon completion of services. The Contractor's invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number; description of supplies of services; quantities; unit price; and extended totals. Separate invoices shall be rendered for each road striping project. Invoices must be submitted to the Using Department. All prices and charges by the Contractor shall be consistent with the prices indicated in Exhibit A.

E. Payment of Invoices. Upon written certification from the Using Department that completion of road striping services has been completed and accepted, payment shall be tendered to the Contractor within net twenty one (21) days. If the payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

F. Taxes. For each invoice submitted to the Using Department, Contractor shall indicate applicable gross receipts taxes or local option taxes on the invoice and tax should be shown as a separate item to be paid. The payment of taxes for any money received under this Agreement shall be the Contractor's federal and State of New Mexico tax identification number(s). If the Using Department is exempt from payment of New Mexico gross receipts tax or local option taxes, the Using Department shall provide the Contractor with written evidence of such exemption.

## 5. EFFECTIVE DATE AND TERM

This Agreement shall become effective on the date first written above and shall terminate four (4) years later, unless earlier terminated pursuant to Section 7 (Termination) or Section 8 (Appropriations and Authorizations).

## 6. DEFAULT

A. The failure of the Contractor to perform and/or complete services as requested by the Using Department shall constitute a default under this Price Agreement. The County reserves the right to cancel all or any part of any orders placed under this Price Agreement without cost to the County if the Contractor's materials or services fails to meet the specifications or requirements of this Price Agreement. The Contractor may be excused from performance under this Price Agreement if the Contractor's failure to perform or complete services are the result of causes beyond the control and without the fault or negligence of the Contractor, such causes include, but are not limited to, acts of God or public enemy, acts of the County or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the County shall determine that the materials or services to be furnished by the subcontractors were obtainable from other sources in sufficient time to permit the Contractor and subcontractor to meet the required schedule.

B. The County shall cancel all or any part of any order without cost to the County if the Contractor fails to meet material provisions of an order.

## 7. TERMINATION

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

within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

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

## **8. APPROPRIATIONS AND AUTHORIZATIONS**

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

## **9. INDEPENDENT CONTRACTOR**

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

## **10. ASSIGNMENT**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

## **11. SUBCONTRACTING**

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

## **12. PERSONNEL**

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

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

## **13. RELEASE**

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

## **14. CONFIDENTIALITY**

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

## **15. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT**

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

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

## **16. CONFLICT OF INTEREST**

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

**17. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED**

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

**18. ENTIRE AGREEMENT; INTEGRATION**

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

**19. NOTICE OF PENALTIES**

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

**20. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

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

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

**21. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

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

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

C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree

that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district courts of New Mexico, located in Santa Fe County.

## **22. RECORDS AND INSPECTIONS**

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

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

## **23. INDEMNIFICATION**

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

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

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

## **24. SEVERABILITY**

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



## 25. NOTICES

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

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

To the Contractor: Highway Supply, LLC  
6221 Chappell Road NE  
Albuquerque, New Mexico 87113

## 26. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

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

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

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

## 27. FACSIMILE SIGNATURES

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

## 28. NO THIRD-PARTY BENEFICIARIES

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

## 29. INSURANCE

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

B. General Liability Insurance. Including Automobile. The Contractor shall procure

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

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

### **30. PERMITS, FEES, AND LICENSES**

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

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

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

### **32. CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

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

### **33. SURVIVAL**

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

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

**SANTA FE COUNTY:**

Katherine Miller  
Katherine Miller  
Santa Fe County Manager

8.7.14  
Date

**APPROVED AS TO FORM**

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

8/5/14  
Date

**FINANCE DEPARTMENT APPROVAL**

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

8/6/14  
Date

**CONTRACTOR:**

[Signature]  
(Signature) Date

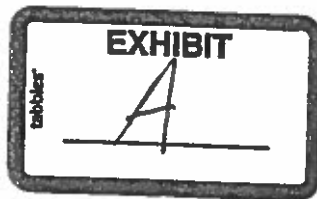
8/13/14

STEVE CLARK  
(Print Name)

VP  
(Print Title)

FEDERAL IDENTIFICATION NUMBER: 26 0096526





IFB #2015-0005-PW/PL

**BID SHEET**  
**Road Striping Services**  
**IFB #2015-0005-PW/PL**

Please offer your best price for all bid items (materials, labor and services) based on the unit price indicated below. **Include signature at the bottom as stated.** Be advised that award may be made without discussion with Bidders.

Offeror's Organization Name: Highway Supply, LLC

#	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	WRITTEN UNIT PRICE
1	Placement of reflectorized high-durable acrylic traffic painted markings installed at <u>22 to 25</u> mils wet film thickness within Santa Fe County, <u>4"</u> stripe, white and yellow (M-TPCWBA CRHB ROHM & HASS HD-21 type II emulsion or DOW DT 400 NA emulsion). To include shadow vehicle with warning lights and arrow board. To include Mobilization required to complete work and all requisite traffic control. Labor and Material.	1,234,000 LF	LF	# .086
2	Placement of reflectorized high-durable acrylic traffic painted markings installed at <u>15 to 17</u> mils wet film thickness within Santa Fe County, <u>4"</u> stripe, white and yellow (M-TPCWBA CRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). To include shadow vehicle with warning lights and arrow board. To include Mobilization required to complete work and all requisite traffic control. Labor and Material.	1,234,000 LF	LF	# .069

*Highway Supply, LLC*

3	Placement of reflectorized high-durable acrylic traffic painted markings installed at <u>15 to 17</u> mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-TPCWBA CRHB-BLEND blend of resins to include ROHM & Hass HD 21 type II emulsion or DOW DT 400 NA Emulsion). To include shadow vehicle with warning lights and arrow board. To include Mobilization required to complete work and all requisite traffic control. Labor and Material.	1,234,000 LF	LF	\$ .069
4	Mobilization within Santa Fe County for emergency urgent striping work per direction of the Traffic Manager.	1,500 MILES	MILE	\$ / .00
5	Obliteration of existing long line pavement markings within Santa Fe County, 4" stripe.	5,000 LF	LF	\$ .60
6	Obliteration of existing pavement markings by the square foot within Santa Fe County.	200 SF	SF	\$ 4.00
7	Mobilization for obliteration of pavement markings within Santa Fe County.	100 MILES	MILE	\$ 5.00
8	Layout of passing/no-passing zones, unmarked roadways, and auxiliary lanes to include left and right lanes, and acceleration and deceleration lanes within Santa Fe County. This item will be measured by the linear foot of center line stripe, mobilization included.	100,000 FT	FT	\$ .03
9	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-	250 SF	SF	\$ 4.00

Highway Supply, LLC

IFB #2015-0005-PW/PL

	TPCWBACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). (not limited to crosswalks, stop bars, legends, symbols, and curb painting) Quantity: 0 – 250 SQ FT.			
10	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-TPCWBACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). (not limited to crosswalks, stop bars, legends, symbols, and curb painting) Quantity: 251 – 500 SQ FT.	500 SF	SF	#3.00
11	Placement of reflectorized high-durable acrylic traffic painted markings installed at 15 to 17 mils wet film thickness within Santa Fe County, 4" stripe, white and yellow (M-TPCWBACRHB ROHM & HASS HD-21 type II emulsion or DOW DT NA emulsion). (not limited to crosswalks, stop bars, legends, symbols, and curb painting) Quantity: 501 SQ FT and over.	1,000 SF	SF	#2.00
12	Placement of reflectorized high-durable acrylic traffic painted markings installed at 22 to 25 mils wet film thickness within Santa Fe County, 6 IN stripe, white and yellow (M-TPCWBACRHB ROHM & HAAS HD-21 type II emulsion or DOW DT 400 NA emulsion). To include shadow vehicle with warning lights and arrow board. Mobilization required to complete work and all requisite traffic	1,234,000	LF	#.115

*Highway Supply, LLC*

	control. Labor and material.			
13	Mobilization required to complete the work for reflectorized traffic painted pavement markings (one way, one-time continuous travel within the state of NM by contractors crew to reach each site. Mileage to be verified by map miles by shortest or most reasonable routs of travel).	1,000 MILES	MILE	\$ 1.00
14	Reflectorized painted curb markings/median noses – Quantity 0 – 250 SF.	125 SF	SF	\$ 4.00
15	Reflectorized painted curb markings/median noses – Quantity 250 – 500 SF.	500 SF	SF	\$ 3.00
16	Reflectorized painted curb markings/median noses – Quantity 501 – 1,000 SF.	1,000 SF	SF	\$ 2.00
17	Removal of painted curb markings ultra high pressure water blasting 40k +	500 SF	SF	\$ 3.00
18	One way mobilization for reflectorized paint curb markings or removal.	150 MILES	MILE	\$ 5.00
19	Furnish MUTCD compliant traffic control for reflectorized paint curb markings or removal.	75 HOURS	HOUR	\$ 60.00
20	Surcharge for Red paint, including 4" standard stenciled wording for Items 9, 10, & 11.	750 SF	SF	\$ .50
21	Surcharge for Green paint, including 4" "LOADING ZONE" for Items 9, 10 & 11.	750 SF	SF	\$ .50
22	Surcharge for Blue paint, including 4" standard stenciled wording for Items 9, 10, & 11.	750 SF	SF	\$ .50



Highway Supply, LLC

IFB #2015-0005-PW/PL

23	Surcharge for Grey paint on Items 9, 10 & 11.	750 SF	SF	\$ .50
24	Sweeping, when requested for Santa Fe County needs. This item to be measured by the linear foot of the stripe to be swept. Sweeping shall be for the lane line where pavement markings are to be directly applied, not the entire roadway surface. For roadways with a centerline stripe, the centerline will be considered one lane line. Note: Cases where debris requires more than one pass shall be considered incidental to the measurement.	100,000	LF	\$ .03
25	Mobilization for sweeping within Santa Fe County.	100	MILE	\$ 5.00

\*ALL PRICES ARE EXCLUSIVE OF GROSS RECEIPTS TAX

\*\*BIDS ARE ALL OR NONE\*\*

BIDDER'S SIGNATURE: \_\_\_\_\_





## ATTACHMENT TO EXHIBIT A

### SPECIFICATIONS

#### 1. OBJECTIVE DESCRIPTION - TECHNICAL SPECIFICATIONS FOR MATERIALS AND APPLICATIONS:

Santa Fe County has approximately 169 miles of roadway and requests bids from firms of interest for the purpose of obtaining a four (4) year Price Agreement for County-wide road striping services including costs for labor and materials.

Contract will be awarded on an all-or-none basis: Bidders must bid prices on all bid items listed on the bid sheet.

The prices given by Contractor shall represent the prices for materials and services to be provided by the Contractor for the materials and services provided under the Price Agreement. It is understood that the Contractor is responsible for payment of all costs of labor, equipment, tools, materials, federal tax, permits, licenses, fees and any other items necessary to complete the services under the Price Agreement.

##### A. Road striping technical specifications for acceptable standards

- a) Tolerance for application of paint and beads: The finished line shall be smooth, aesthetically acceptable and free from undue waviness. The end of the line shall be square and free from splatter, dribble or trailings. Centerline and edge lines shall be four inches (4") to six inches (6") wide. White channelizing lines for left turn bays shall be four inches (4") to eight inches (8") wide. Line width variation of more than one quarter inch (1/4") shall require rework. For standard waterborne acrylic paint, painted lines shall be installed at 16 mils wet film thickness or at a minimum rate of 19.75 gallons of paint per mile of solid four inch (4") line or 4.94 gallons of paint per mile of broken four inch (4") line, or in accordance with manufacturer's recommendations for successive generations of pavement materials. The County shall perform spot checks for wet material thickness and compliance and require inspection of quantities of material desired.

For standard and waterborne acrylic paint, the following table correlates wet mil thickness for four inch (4") line paint volume and line length.

Paint (Gal/Mil)	Paint Thickness (Mil)	Paint (Ft/Gal)
19.75	18	267
18.65	17	283
17.55	16	300
16.45	15	320

15.36	14	344
14.26	13	370
13.16	12	401
12.06	11	437
10.96	10	481
9.86	9	535

- b) Hi-build acrylic paints: Required to be installed at 22 to 25 mils wet film thickness, the minimum rate is 24.14 to 27.43 gallons of paint per mile of solid four inch (4") line or 6.04 to 6.86 gallons of paint per mile of broken four inch (4") line. Application rates will be adjusted as necessary to conform to manufacturer's recommendations for successive generations of pavement materials. The County shall perform spot checks for wet material thickness and compliance and require inspection of quantities of material desired.

For Hi-build acrylic paints, the following table correlates wet mil thickness for four inch (4") line paint volume and line length.

Paint (Gal/Mil)	Paint Thickness (Mil)	Paint (Ft/Gal)
30.72	28	172
29.62	27	178
28.53	26	185
27.43	25	193
26.33	24	201
25.23	23	209
24.14	22	219
23.04	21	229
21.94	20	241
20.85	19	253
19.75	18	267
18.65	17	283
17.55	16	300
16.45	15	320
15.36	14	344
14.26	13	370
13.16	12	401

For striping below acceptable standards, the County will require either rework by the contractor at no charge or impose a percentage reduction in price in accordance with Table 704.5.1:1 of the NMDOT Standard Specifications for Highway and Bridge Construction, 2007 Ed.

The space or gap between double yellow lines shall be four inches (4") clear. A reduction in pay or rework shall be required for a gap less than 3.75 inches or greater than 4.25 inches.

No time extensions will be allotted to the striping schedule for each road striping services requested by the County to accommodate rework required due to deficient striping determined to be caused by the contractor.

Glass reflectorized beads shall be applied on the wet paint at a minimum rate of six (6) pounds to each gallon of paint, except where specified at a different rate in the material specification. All painted lines are to receive glass beads at this rate. Any line discovered to have been applied without glass beads shall be restriped by the contractor within twenty-four (24) hours.

Any line discovered to have been applied with insufficient quantities of glass beads will be cause for the County to require either rework by the contractor at no charge or impose a percentage reduction in price in accordance with Table 704.5.1 of Standard Specifications for Highway and Bridge Construction, 2007 Ed.

Pavement markings not applied in accordance with plans and specifications shall be subject to the price reduction schedule consistent with the NMDOT Specifications (704) for Highway and Bridge Construction. Any error in striping pattern deemed by the County to be the responsibility of the contractor shall be corrected at the contractor's expense using approved methods. Covering or obliterating any stripe with black paint is strictly prohibited.

The County shall have the right and authority to reject materials or workmanship by the contractor. Materials and workmanship may be rejected for failure to meet specifications or to perform satisfactorily upon application, or for failure to be delivered or completed at the time specified. Contractor will not be compensated for material or workmanship that is rejected. The County shall not be liable to the contractor in any way for any damages of any nature whatsoever resulting from the rejection of the materials or workmanship. When materials or workmanship are rejected, the contractor shall be informed of the reason for the rejection in writing as soon as practical after the rejection. The contractor agrees to indemnify the County for any and all losses incurred due to delay in shipment or installation, or rejection of material or workmanship.

Tolerance for striping obliteration: striping requiring obliteration shall be removed using only water blasting in accordance with the latest standards and specifications. Stripe obliteration shall not deform or damage the roadway surface. The contractor shall collect all debris from the obliteration process and dispose of the material in a legal environmentally sound manner. **Note:** Contractor will not be compensated for obliteration of improperly installed or rejected pavement markings.

## 2. SCOPE OF WORK TO BE COMPLETED UNDER THE PRICE AGREEMENT:

The Contractor shall:

- A. Provide competent supervision and skilled personnel to carry on all work in progress.
- B. Furnish all equipment, labor, material and tools required to perform the work specified. The contractor shall maintain during the entire term of the Price Agreement, equipment sufficient, in operational conditions and capacity to efficiently perform the work and services required by the Agreement. Downtime due to equipment failure shall not exceed one (1) day. If an excess of one (1) day downtime occurs, the Contractor shall notify the County of the problem and estimated downtime. The County reserves the right, if more than one (1) day of unexcused or unauthorized downtime occurs, to have the roads striped by a different contractor or vendor.
- C. Provide mobilization for routine, non-emergency striping and such mobilization will be considered incidental to the work.
- D. Have the sole responsibility for all clean-up of materials resulting from the transportation of materials and services performed under the Price Agreement.
- E. Be responsible for damage resulting from paint materials on public vehicles.
- F. Abide by the New Mexico State Highway and Transportation Department Standard Specifications for Road and Bridge Construction, 2007 Ed., Division 700 on traffic control devices. Contractor shall also conform to the Manual of Uniform Traffic Control Devices, current edition, including Part VI-Traffic Control for Street and Highway Construction and Maintenance Operations.
- G. Comply with all local, state, and federal laws governing safety, health and sanitation. The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions necessary to protect the life and health of employees on-the-job and the safety of the public, and to protect property in connection with the performance of the services covered by the Price Agreement.
- H. Submit a traffic control plan to the County two (2) weeks prior to starting any road striping work, the County shall review and approve the proposed signing, location of signs and location and type of all traffic channelization devices to be utilized prior to the beginning of operations. All lane closures and detours must also be approved by the County. The County may also require that the contractor provide sufficient flagmen, additional shadow vehicles and/or truck mounted attenuators when deemed necessary for safety and/or to allow adequate time for material to cure to non-tracking state. To assist with the

traffic control during operations, the contractor shall also remove or cover temporary signing that is not required during non-working hours and nighttime hours. The sequential flashing arrow unit, when required, shall be a NMDOT approved product. At least one (1) lane shall be kept open to traffic, with adequate flagging, when working on a two-lane road; treated road roadways shall be re-opened to traffic during nighttime or non-working hours. All traffic control costs shall be incidental and included in the cost of the bid items.

- I. Be responsible for restriping any areas where vehicles have tracked through fresh paint.
- J. Disposal of Waste Material: The Contractor shall be responsible for the disposal of all waste material associated with any and all activities covered in this Price Agreement. All waste shall be transported to an appropriate facility for proper handling and disposal. Documentation of the treatment of all waste material shall be provided to the County by the Contractor.

The Contractor shall provide the County with a spill recovery plan including: name, address, and phone number for the person designated as the contractor's response coordinator; as well as the name, address, and phone numbers of persons qualified, capable and on-call to do any cleanup.

- K. Material Storage: All material and material containers shall be stored according to manufacturer requirements. No material or storage containers shall be stored, staged or left for any period of time within the right-of-way of any County road.

Materials and equipment may be stored at County patrolled yards when authorized by the County.

For each road striping project, the Contractor shall submit a complete and detailed quality control/quality assurance plan. The plan shall include:

- Detailed Quality Control/Quality Assurance Program
- Materials testing procedures
- In-place field testing
- Weather monitoring and reporting methods
- Billing format and frequency
- Reporting methods and frequency
- Scheduling format, method and frequency
- Request for changes (i.e., previously submitted schedules, specified materials, etc.)

- L. Work Schedule: Except as otherwise approved in writing by the County road striping work shall be performed during daylight hours, Monday through

Friday. No work shall be performed on County holidays or on weekends unless otherwise approved by the County. The Contractor shall avoid work during "rush hour" traffic in urban areas, unless prior approval is received from the County. Prior to commencing with any work, the contractor shall receive written or verbal notification to proceed from the County. A list of work required by the County shall be provided to the contractor. The Contractor shall provide a tentative schedule for performance of the work requested by the County for approval; the Contractor shall complete the work in accordance with the approved schedule. The Contractor shall provide twenty-four (24) hour notice to the County of a location to be striped. When the work is to be performed at the beginning of work week (Monday), the Contractor shall provide notice by Friday of the preceding week. Any additional work requested by the County shall require a revised schedule, to include any additional work, for approval by the County. Exceptions may be granted in writing by the County upon approval of a revised written schedule for performance of the remaining work. Some projects may require urgent attention and completion within twenty-four (24) hours, and may be required in addition to the approved schedule of work. The contractor shall report weekly to the County the total number of linear feet of markings applied, material used and location(s) of completed work. Upon notification, the County shall conduct a final inspection. Work found to be in conformance with the Price Agreement shall be reviewed for acceptance by the County and scheduled for payment.

Payment for non-conforming work shall be withheld until such a time as the work is brought into conformance with the Price Agreement and accepted by the County.

The County will inspect operations at its discretion. The Contractor is still responsible for the project being completed in accordance with all plans schedules and technical specifications. The County has the authority to stop the contractor's work if it determines that the contractor's services are not in compliance with plans, schedules and technical specifications. Such work will be re-done at the contractor's expense to the satisfaction of the County.

The County, at its discretion, will measure the retro-reflectivity markings using 30-m geometry. The markings will be measured within thirty (30) days of application. Except where specified in the material specification, the minimum retro-reflective value for white markings is 250 mcd/m<sup>2</sup>/lux the minimum retro-reflective value for yellow markings is 150 mcd/m<sup>2</sup>/lux. Measurements will be taken every ¼ (.25) miles on average will be calculated for every mile. Average values that fall from one to ten percent (1-10%) below minimum values will result in a ten percent (10%) price reduction for that mile of roadway. Average values that fall from eleven to twenty-five percent (11-25%) minimum values will result in a twenty-five percent (25%) price reduction for that mile of roadway. Average values that fall greater than



twenty-five (25%) below minimum values will require restriping of that mile of roadway at no additional cost to the County.

To ensure timely placement of pavement markings, the following delivery times shall be met from the date of the work order:

<b>Pavement Markings Linear Feet</b>	<b>Required Delivery Times* Number of Working Days</b>
0 – 13,200,000	15
13,200,001 – 26,400,000	30
26,400,001 – 39,600,000	60
39,600,001 and over	**

\*The Contractor shall be subject to a price reduction equal to two percent (2%) of the total purchase order, per day for each working day the pavement markings are not in place as specified above.

\*\*To be determined by the County based on actual footage.

The County has the authority to issue purchase orders to a different contractor or vendor if the Contractor indicates that the work cannot be delivered or completed in accordance with the Price Agreement.

**M. Performance Bond:** Prior to the issuance of a purchase order, the successful contractor(s) must provide a performance bond and a labor and materials payment bond each equal to one hundred percent (100%) of the total purchase order for a specific project. Said bonds must be provided to the Public Works Department within ten (10) calendar days after the County's issuance of a Purchase Order.

The performance bond is to secure the County for losses and damages sustained by reason of default of the Price Agreement by the Contractor. The labor and materials payment bond is to provide for the contractor's payment of sub-contractors and suppliers. The bond cost shall be included in the price of the bid items.

**N. REQUIREMENTS and/or QUALIFICATIONS:**

No person shall act as a contractor without a license issued by the Construction Industries Division (CID) classified to cover the type of work to be undertaken. No work shall be performed unless the contractor has a valid license issued by the Construction Industries Division to perform the type of work to be undertaken, Section 60-13-12, NMSA 1978.

All bid items, materials, and installation shall meet (or exceed) the NMDOT Current Standard Specifications for Highway and Bridge Construction, plus

any supplemental or standard specifications and standard (serial) drawings (to the extent they may be pertinent to the work being performed) established by NMDOT.

All items provided and work performed under this Price Agreement must comply with all applicable requirements of the most recent Manual on Uniform Traffic Control Devices (MUTCD).

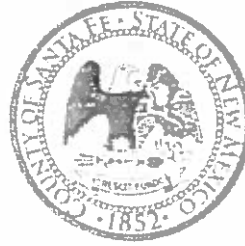




Henry P. Roybal  
Commissioner, District 1

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

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

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

**FROM:** *Bill Taylor, Purchasing Director*

**VIA:** *Katherine Miller, County Manager*  
*Jeffrey Trujillo, ASD Director*  
*Michael Kelley, Public Works Department Director*

**ITEM AND ISSUE:** BCC Meeting September 13, 2016  
Request Approval of Change Order No. 2 in the Amount of \$65,251 to Construction Contract No. 2016-0169-PW/MM with A.A.C. Construction for the La Cienega Waterline Extension Project (Public Works/Mark Hogan)

---

**SUMMARY: Change Order No. 2 for full extent of added Rock Excavation**

On April 26 of this year, in accordance with Resolution 2016-46, the Board of County Commissioners delegated authority to the County Manager to negotiate and execute Construction Contract #2016-0169-PW/MM with A.A.C. Construction, LLC for an amount of \$359,000 plus NM GRT. This request is to grant Board approval of Change Order No. 2 in the amount of \$65,251 for a total Contract amount of \$449,967.19.

The amount of change order No. 2 increases the original contract amount by more than 10% and therefore requires Board of County Commissioners approval pursuant to Resolution 2012-57, Section 10.B.

**BACKGROUND:**

The La Cienega Waterline Extension Project has encountered unforeseen rock in various locations. The construction contract contemplates the possibility of additional work being required in *Section 20 – Subsurface Conditions Found Different*. During the course of construction, solid rock was encountered and change order No. 1 in the amount of \$25,716.19 was processed to accommodate the additional cost of rock excavation and jack and bore casing.

Additional rock was encountered resulting in change order No. 2 increasing the original contract amount by more than 10%. All pipeline trenching with the exception of the service connections to residents, has been completed and no more rock excavation is anticipated. In addition, since the execution of the contract, four more residents have requested service connections. The contractor

has submitted a quote for those additional connections. Finally, treatment for slope protection and erosion control is required and that cost is included in the change order. The approval of change order #2 will bring the total project cost to \$449,967.19. The existing project budget can accommodate this additional change order.

**ACTION REQUESTED:**

Approval of Change Order No. 2 in the amount of \$65,251 to Construction Contract No. 2016-0169-PW/MM with A.A.C Construction for the La Cienega Waterline Extension Project. As mentioned, this increases the contract total sum to \$449,967.19 (plus GRT) and delegating authority to the County Manager to sign the purchase order for the subject Change Order.

**Attachments:**

1. Change Order #2
2. Change Order #1
3. Copy of Original Construction Agreement

## EXHIBIT I

### CHANGE ORDER

PROJECT: LA CIENEGA WATERLINE CONSTRUCTION

CONTRACTOR: AAC Construction  
CHANGE ORDER NO: TWO

ARCHITECT/ENGINEER: Morris Surveying Engineering/Richard Morris

PROJECT NO: 2016-0169-PW/MM

Contractor Telephone: 505-471-2510  
Contractor e-mail: andrew@cnsnp.net  
ENGINEER'S/ARCHITECT'S PROJECT NO: 0514

---

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

Item #1 - Contractor has identified 575 linear feet of rock excavation on certain sections of La Lomita and 12 feet of rock excavation required to install the La Lomita Fire Hydrant at station point 37+31 for a total of 587 feet of rock excavation.

The Contractor has submitted a quote for rock excavation at a cost of \$ 82.46 per linear foot at a cost of \$48,404.00.

Item #2 - The SFC Utilities Division requests an Additional 4 Water Services Connections be added to the work. The Contractor has submitted a quote at \$2900.00 for each connection for a cost of \$11,600.00.

Item #3 - SFC Projects Division has requested Slope Protection and Erosion Control be added to the work for disturbed areas beyond the original scope of work. The Contractor has submitted a quote for \$5247.00 for approximately 1.5 acres of area to be treated.

---

You are directed to make the following changes in this Contract:

Provide above referenced work for the amount of \$65,251.00 in compensation for the additional scope of work beyond the original estimated amount identified in the contract with Santa Fe County.

---

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

---

The Original Contract Sum was	\$ 359,000.00
Net change by previously authorized Change Orders	\$ 25,716.19
The Contract Sum prior to this Change Order will be	\$ 384,716.19
increased by this Change Order in the amount of	\$ 65,251.00
The new contract Sum including this Change Order will be	\$ 449,967.19

The Contract Time will be increased/decreased/unchanged by 0 days.

The date of Substantial Completion as of the date of this Change Order therefore is: September 28, 2016.

CHANGE ORDER SIGNATURE PAGE

SANTA FE COUNTY

\_\_\_\_\_  
Miguel Chavez  
Chair, Board of County Commissioners

\_\_\_\_\_  
Date

ATTEST

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

\_\_\_\_\_  
Date

Approved as to form:

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

\_\_\_\_\_  
Date

Finance Department:

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

\_\_\_\_\_  
Date

CONTRACTOR:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

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

Reviewed with No Exceptions taken,  
\_\_\_\_\_  
Richard A. Morris  
Project Engineer

\_\_\_\_\_  
Date



A.A.C. CONSTRUCTION, LLC NM DOL 03058720140922 License # 361394

18 La Luna Rd.  
Santa Fe, New Mexico 87507  
Ph: (505) 930-0481  
Fax: (505) 473-4787

## LA CIENEGA WATERLINE, Erosion Control, ADD Water Services

To: Mark Hogan, AIA  
Projects Division  
Public Works Department  
901 W. Alameda, Suite 20C  
Santa Fe, NM 87504

Date: 8/30/2016  
Phone: (505) 992-9852 Fax: (505) 992-9869 Email: mhogan@santafecountynm.gov  
Job Name: La Cienega Waterline- Additional Items to Change Order #2  
Job Location: La Cienega, New Mexico 87507  
Project No.: 2016-0169-PW/MM

Item #/Q. We hereby submit estimates for:

Quantity	Unit	Description	Unit Cost	Extended
1	4	EA Additional Water Services Ready for Water Meter.	2900	\$11,600.00
2	1	LS Erosion Control. Caldon's Quote dated 8-29-2016. of 4,770.00 plus 10% Contractors Fee 477.00.	5247	\$5,247.00

Subtotal: Erosion Control/Add water services Portion of Change Order No. 2

Prevaling Tax Rate or - NTTC 7.0000% NET \$16,847.00

We Acknowledge Addendum # 0

Total GROSS \$18,026.29

We hereby propose to furnish equipment/labor/material complete for the sum of

See Above dollars ( \$18,026.29 Includes Tax )

Payment to be made as follows:  
Contract Days Net upon receipt of invoice

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, builder's risk and other necessary insurance.

NOTE: This proposal may be withdrawn by us if not accepted within 60 calendar days

ATTACHMENT B.

A.A.C. CONSTRUCTION, LLC NM DOL 03058720140922 License # 361394

18 La Luna Rd.  
Santa Fe, New Mexico 87507  
Ph: (505) 930-0481  
Fax: (505) 473-4787

## LA CIENEGA WATERLINE, Rock Excavation Quote

To: Mark Hogan, AIA  
Projects Division  
Public Works Department  
901 W. Alameda, Suite 2DC  
Santa Fe, NM 87504

Date: 7/28/2016  
Phone: (505) 992-9852 Fax: (505) 992-9869  
Job Name: La Cienega Waterline- Change Order #2  
Job Location: La Cienega, New Mexico 87507  
Project No.: 2016-0169-PW/MM

Email: mhogan@santafecountynm.gov

Item NO. We hereby submit estimates for

Quantity	Unit	Description	Unit Cost	Extended
587	LF	ROCK EXCAVATION	\$82.46	\$48,404.02

Subtotal Rock Portion of Change Order No. 1

NET

\$48,404.02

Prevailing Tax Rate or - NTTC

7.0000%

\$3,388.28

Grand Total

GROSS

\$51,792.30

We Acknowledge Addendum # 0

We hereby propose to furnish equipment/ labor/ materials/ contract for the sum of

See Above

dollars

( \$51,792.30

Includes Tax )

Payment to be made as follows:

Contract Days Net upon receipt of invoice

All material is guaranteed to be as specified. All work to be completed in a  
workmanlike manner according to standard practices. Any alteration or deviation  
from above specifications involving extra costs, will be executed only upon written  
orders, and will include an extra charge over and above the estimate. All  
agreements contingent upon signed contracts to delays beyond our control. Owner  
to carry fire, theft, liability and other necessary insurance.

NOTE: This proposal may be  
withdrawn by us if not accepted  
within 60 calendar days

ATTACHMENT B.



# CALDON SEEDING & RECLAMATION

Route 1 Box 84-San Acacio, Colorado 81151

505-850-8412/719-672-0535fx

[caldonseeding@gojade.org](mailto:caldonseeding@gojade.org)

DOL # 01679820101127

License # 20091511770

Item Number	Item Description	Quantity (minimums)	Price	Total
1	Hydroseeding (2000lbs wood fiber mulch per acre, 150 lbs tackifier per acre, and design seedmix)	1.5 acres	\$2,946.67 per acre	\$4,420.00
2	Erosion Control Blanket (double sided straw)	100 sq yards	\$3.50 per SY	\$350.00
			Total =	\$4,770.00

Project: La Cienega Revegetation

Date: 8/29/16

NMGRT not included.

## Conditions:

1. We only guarantee to seed to specifications
2. First mobilization included, additional mobilizations are \$500
3. Watering not included
4. Water to be provided by the contractor
5. No debris or rock picking
6. Acreage to be measured before mobilization
7. Bonding will be charged at 3.5% of contract





## **EXHIBIT I**

### **CHANGE ORDER**

**PROJECT: LA CIENEGA WATERLINE CONSTRUCTION**

**CONTRACTOR: AAC Construction**  
**CHANGE ORDER NO: ONE**

**ARCHITECT/ENGINEER: Morris Surveying Engineering/Richard Morris**

**PROJECT NO: 2016-0169-PW/MM**

**Contractor Telephone: 505-471-2510**  
**Contractor e-mail: andrew@cnsr.net**  
**ENGINEER'S/ARCHITECT'S PROJECT NO: 0514**

---

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

**Item #1 – The Contractor has identified approximately 101.77 linear feet of required rock excavation on La Lomita road and 190 linear feet of rock excavation on Cielo Del Oeste for a total of approximately 292 linear feet through July 28, 2016.**

**The Contractor has submitted a quote for rock excavation at a cost of \$82.46 per linear foot at a cost of \$24,078.32.**

**This Change Order #1 will address the rock excavation encountered through July 28, 2016 and does not include all the rock that is expected to be encountered before the completion of the work. This interim change is requested to approve the removal of the rock encountered through the date listed to maintain the progress of the work. Change Order #2 will address any remaining rock work encountered in completing the project.**

**Item #2 - During the jack and bore process required to traverse two arroyos along the La Cienega Waterline it was determined that an addition 10 feet of 16-inch carrier pipe was required to maintain the stability of the slope of the adjacent arroyo. The Contractor has submitted a quote for 10 feet of 16-inch carrier pipe at a cost of \$1,637.87.**

**This brings the total cost of Change Order #1 to \$25,716.19**

---

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

**The rock excavation and the additional carrier pipe in the amount of \$25,716.19 are in compensation for the additional scope of work beyond the original estimated amount identified in the contract with Santa Fe County.**

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

The Original Contract Sum was	\$ 359,000.00
Net change by previously authorized Change Orders	\$ 0.00
The Contract Sum prior to this Change Order will be	\$ 359,000.00
Increased by this Change Order in the amount of	\$ 25,716.19
The new contract Sum including this Change Order will be	\$ 384,716.19
The Contract Time will be increased/decreased/unchanged by <u>0</u> days.	
The date of Substantial Completion as of the date of this Change Order therefore is: September 28, 2016.	

CHANGE ORDER SIGNATURE PAGE

SANTA FE COUNTY

  
Katherine Miller  
Santa Fe County Manager


8-30-16  
Date

Approved as to form:

  
Gregory S. Shaffer  
Santa Fe County Attorney


8-26-16  
Date

Finance Department:

  
Carole H. Jaramillo  
Santa Fe County Finance Director

8/29/16  
Date

CONTRACTOR:

  
Signature  
Andrew Sineras  
Print Name

8-18-16  
Date

Reviewed with No Exceptions taken,

  
Richard A. Morris  
Project Engineer

AUG. 19, 2016  
Date

A.A.C. Construction, LLC

BID ITEM SUMMARY OF COSTS

PROJECT NAME: *La Cienega Water System Improvements*

PROJECT NUMBER: 1001-31

DATE: 7/10/2016

BID ITEM NUMBER: C.O. 1

BID ITEM DESCRIPTION: *Add 10ft Bore Casing*

SUB-ITEMS

EQUIPMENT	\$ 15.37
LABOR	\$ 82.50
MATERIAL	\$ -
TRUCKING	\$ -
SUBCONTRACT	\$ 1,540.00

TOTAL ITEM: C.O. 1 TOTAL \$ 1,637.87

# A.A.C. Construction, LLC

## SUBCONTRACT COST ESTIMATION

DATE: 7/10/2016

**PROJECT NAME: La Cienega Water System Improvements**

PROJECT NUMBER: IFB# 2016-0169-PW/MM

BID ITEM DESCRIPTION: Add 10ft Bore Casing

BID ITEM NUMBER: C.O. 1

TASK DESCRIPTION	SUBCONTRACTOR PRICE
DH Underground 10 ft x S140	\$ 1,400.00
	\$ -

SUB-TOTAL	\$	1,400.00
0% G.A.	\$	-
SUB-TOTAL	\$	1,400.00
10% FEE	\$	140.00
SUB-TOTAL	\$	1,540.00
TAX	\$	-
SUB-TOTAL	\$	1,540.00
BOND	\$	-
C.O. 1	\$	1,540.00

**SUB-TOTAL AMOUNT FOR ITEM NUMBER**



**A.A.C. CONSTRUCTION, LLC** NM BDL 03068728140623 License # 261304

18 La Luna Rd  
Santa Fe, New Mexico 87507  
Ph: (505) 830-0481  
Fax: (505) 473-4787

## LA CIENEGA WATERLINE, Rock Excavation Quote

To: **Mail Hogan, AIA**  
Project Division  
Public Works Department  
101 W Alameda, Suite 20C  
Santa Fe, NM 87504

Date: 7/11/2016  
Phone: (505) 992-9852 Fax: (505) 992-9869  
Job Name: La Cienega Waterline Change Order #1  
Job Location: La Cienega, New Mexico 87507  
Project No.: 2016-0160-PYV/MM

Email: mhogan@saantafecountynm.gov

Item No. 10 - Provide material and labor for

Quantity	Unit	Description	Unit Cost	Extended
272	LF	ROCK EXCAVATION	\$82.46	\$22,429.12
Subtotal Rock Portion of Change Order No. 1			NET	\$24,078.32
Prevailing Tax Rate or: NTTC			7.0000%	\$1,685.48
Grand Total			GROSS	\$25,763.80

We Acknowledge Addendum # 0

We have prepared to furnish equipment and labor for the above

See Above  
Total \$25,763.80 Includes Tax  
Payment to be made as follows:  
Contract Price Net of retent of moneys

All material to be furnished in the city of Santa Fe. All work to be performed in a  
reasonable manner, subject to the city of Santa Fe. Any alteration or change  
from above may be made in the city and the contractor shall agree to  
work as directed by the city of Santa Fe and the contractor shall agree to  
provide the necessary equipment and labor for the above. The contractor  
shall be responsible for the cost of any equipment and labor.

7/11/2016  
The contractor shall be  
responsible for the cost of any equipment and labor.

ATTACHMENT A.

# A.A.C. Construction, LLC

## LABOR COST ESTIMATION

DATE: 7/10/2016

**PROJECT NAME: La Cienega Water System Improvements**

PROJECT NUMBER: IFB# 2016-0169-PW/MM

BID ITEM DESCRIPTION: Add 10ft Bore Casing

BID ITEM NUMBER: C.O. 1

LABOR	BASE	LABOR	PER MAN	TOTAL	TOTAL MAN	PER MAN	TOTAL MAN	SUB
DESCRIPTION	RATE	BURDEN	HOURLY COST	MEN	HOURLY COST	HOURS	HOURS	TOTAL
OPERATOR GROUP II	23.6	11.8	35.4	1	35.4	0	0	\$ -
330 EXCAVATOR								
OPERATOR GROUP II	23.6	11.8	35.4	1	35.4	0	0	\$ -
950 LOADER								
OPERATOR GROUP II	23.6	11.8	35.4	1	35.4	0	0	\$ -
Truck Driver II	13.78	6.89	20.67	1	20.67	0	0	\$ -
GROUP II LABOR	17.8	8.9	26.7	1	26.7	0	0	\$ -
GROUP II LABOR	17.8	8.9	26.7	1	26.7	0	0	\$ -
GROUP X LABOR	18.45	9.225	27.675	1	27.675	0	0	\$ -
Pipe Fitter	32.37	16.185	48.555	1	48.555	0	0	\$ -
PM	65	32.5	97.5	1	97.5	0	0	\$ -
Foreman	25	12.5	37.5	1	37.5	2	2	\$ 75.00



SUB-TOTAL \$ 75.00

0% G.A. \$ -

SUB-TOTAL \$ 75.00

10% FEE \$ 7.50

SUB-TOTAL \$ 82.50

TAX \$ -

SUB-TOTAL \$ 82.50

BOND \$ -

SUB-TOTAL AMOUNT FOR ITEM NUMBER: C.O. 1 \$ 82.50

# A.A.C. Construction, LLC

## EQUIPMENT COST ESTIMATION

DATE 7/10/2016

PROJECT NAME: La Cienega Water System Improvements

PROJECT NUMBER: IFB# 2016-0169-PW/MM

BID ITEM DESCRIPTION: Add 10ft Bore Casing

BID ITEM NUMBER: C.O. 1

EQUIPMENT DESCRIPTION	EQUIPMENT PIECES	UNIT TYPE	UNIT QUANTITY	TOTAL UNIT QUANTITY	RATE PER UNIT	OPERATION COST PER UNIT	TOTAL COST PER UNIT	SUB TOTAL
Mini Ex	1	HOUR	0	0	20.83	7.2905	28.1205	\$ -
Backhoe	1	HOUR	0	0	18	6.3	24.3	\$ -
F350 FORD UTILITY TRUCK	1	HOUR	0	0	15	5.25	20.25	\$ -
Wear & Tear, Replacement, Maintenance of SMALL EQUIP/MISC TOOLS	1	HOUR	0	0	7.56	2.646	10.206	\$ -
Transport Fees	1	HOUR	0	0	70	24.5	94.5	\$ -
Tamper	1	HOUR	0	0	12.75	9.5625	22.3125	\$ -
Chain Saw	1	HOUR	0	0	8.95	3.1325	12.0825	\$ -
330 Excavator	1	HOUR	1	0	180	81	261	\$ -
Cat 950 Loader	1	HOUR	1	0	148.75	47.6	196.35	\$ -
Concrete Breaker	1	HOUR	0	0	130	32.5	162.5	\$ -
JOHN DEER 200 EXCAVATOR	1	HOUR	0	0	37.5	13.125	50.625	\$ -
Concrete Pump	1	HOUR	0	0	95	33.25	128.25	\$ -
F-250 SERVICE TRUCK	1	HOUR	1	1	10.35	3.6225	13.9725	\$ 13.97
SOIL COMPACTOR	1	HOUR	0	0	21.05	13.689	34.749	\$ -
Compressor	1	HOUR	0	0	8	2.8	10.8	\$ -
33" TRENCH ROLLER	1	HOUR	0	0	19.61	6.8635	26.4735	\$ -
WELDER	1	HOUR	1	0	17.89	6.2615	24.1515	\$ -
2000 Gallon WATER TRUCK	1	HOUR	1	0	31	13.95	44.95	\$ -

SUB-TOTAL \$ 13.97

0% G/A \$ -

SUB-TOTAL \$ 13.97

10% Fee \$ 1.40

SUB-TOTAL \$ 15.37

TAX \$ -

SUB-TOTAL \$ 15.37

BOND \$ -

SUB-TOTAL AMOUNT FOR ITEM NUMBER: C.O. 1 \$ 15.37

# A.A.C. Construction, LLC

## EQUIPMENT COST ESTIMATION

DATE 7/10/2016

PROJECT NAME: La Cienega Water System Improvements  
PROJECT NUMBER: IFB# 2016-0169-PW/MM

BID ITEM DESCRIPTION: Add 10R Bore Casing  
BID ITEM NUMBER: C.O. 1

EQUIPMENT DESCRIPTION	EQUIPMENT PIECES	UNIT TYPE	UNIT QUANTITY	TOTAL UNIT QUANTITY	RATE PER UNIT	OPERATION COST PER UNIT	TOTAL COST PER UNIT	SUB TOTAL
Mini Ex	1	HOUR	0	0	20.83	7.2905	28.1205	\$ -
Backhoe	1	HOUR	0	0	18	6.3	24.3	\$ -
F350 FORD UTILITY TRUCK	1	HOUR	0	0	15	5.25	20.25	\$ -
Wear & Tear, Replacement, Maintenance of SMALL EQUIP/MISC TOOLS	1	HOUR	0	0	7.56	2.646	10.206	\$ -
Transport Fees	1	HOUR	0	0	70	24.5	94.5	\$ -
Tamper	1	HOUR	0	0	12.75	9.5625	22.3125	\$ -
Chain Saw	1	HOUR	0	0	8.95	3.1325	12.0825	\$ -
330 Excavator	1	HOUR	1	0	180	81	261	\$ -
Cat 950 Loader	1	HOUR	1	0	148.75	47.6	196.35	\$ -
Concrete Breaker	1	HOUR	0	0	130	32.5	162.5	\$ -
JOHN DEER 200 EXCAVATOR	1	HOUR	0	0	37.5	13.125	50.625	\$ -
Concrete Pump	1	HOUR	0	0	95	33.25	128.25	\$ -
F-250 SERVICE TRUCK	1	HOUR	1	1	10.35	3.6225	13.9725	\$ 13.97
SOIL COMPACTOR	1	HOUR	0	0	21.06	13.689	34.749	\$ -
Compressor	1	HOUR	0	0	8	2.8	10.8	\$ -
33" TRENCH ROLLER	1	HOUR	0	0	19.61	6.8635	26.4735	\$ -
WELDER	1	HOUR	1	0	17.89	6.2615	24.1515	\$ -
2000 Gallon WATER TRUCK	1	HOUR	1	0	31	13.95	44.95	\$ -

SUB-TOTAL \$ 13.97  
0% G/A \$ -  
SUB-TOTAL \$ 13.97  
10% Fee \$ 1.40  
SUB-TOTAL \$ 15.37  
TAX \$ -  
SUB-TOTAL \$ 15.37  
BOND \$ -  
SUB-TOTAL AMOUNT FOR ITEM NUMBER: C.O. 1 \$ 15.37

# A.A.C. Construction, LLC

## LABOR COST ESTIMATION

DATE: 7/10/2016

**PROJECT NAME: La Cienega Water System Improvements**

PROJECT NUMBER: IFB# 2016-0169-PW/MM

BID ITEM DESCRIPTION: Add 10ft Bore Casing

BID ITEM NUMBER: C.O. 1

LABOR DESCRIPTION	BASE RATE	LABOR BURDEN	PER MAN HOURLY COST	TOTAL MEN	TOTAL MAN HOURLY COST	PER MAN HOURS	TOTAL MAN HOURS	SUB TOTAL
OPERATOR GROUP II	23.6	11.8	35.4	1	35.4	0	0	\$ -
330 EXCAVATOR OPERATOR GROUP II	23.6	11.8	35.4	1	35.4	0	0	\$ -
950 LOADER OPERATOR GROUP II	23.6	11.8	35.4	1	35.4	0	0	\$ -
Truck Driver II	13.78	6.89	20.67	1	20.67	0	0	\$ -
GROUP II LABOR	17.8	8.9	26.7	1	26.7	0	0	\$ -
GROUP II LABOR	17.8	8.9	26.7	1	26.7	0	0	\$ -
GROUP X LABOR	18.45	9.225	27.675	1	27.675	0	0	\$ -
Pipe Fitter	32.37	16.185	48.555	1	48.555	0	0	\$ -
PM	65	32.5	97.5	1	97.5	0	0	\$ -
Foreman	25	12.5	37.5	1	37.5	2	2	\$ 75.00



SUB-TOTAL \$ 75.00

0% G/A \$ -

SUB-TOTAL \$ 75.00

10% FEE \$ 7.50

SUB-TOTAL \$ 82.50

TAX \$ -

SUB-TOTAL \$ 82.50

BOND \$ -

SUB-TOTAL AMOUNT FOR ITEM NUMBER: C.O. 1 \$ 82.50

# A.A.C. Construction, LLC

## SUBCONTRACT COST ESTIMATION

DATE: 7/10/2016

**PROJECT NAME:** *La Cienega Water System Improvements*

PROJECT NUMBER: IFB# 2016-0169-PW/MM

BID ITEM DESCRIPTION: Add 10ft Bore Casing

BID ITEM NUMBER: C.O. 1

TASK DESCRIPTION	SUBCONTRACTOR PRICE
DH Underground 10 ft x \$140	\$ 1,400.00
	\$ -

SUB-TOTAL	\$	1,400.00
0% G/A	\$	-
SUB-TOTAL	\$	1,400.00
10% FEE	\$	140.00
SUB-TOTAL	\$	1,540.00
TAX	\$	-
SUB-TOTAL	\$	1,540.00
BOND	\$	-
<b>SUB-TOTAL AMOUNT FOR ITEM NUMBER</b>	<b>C O 1</b>	<b>\$ 1,540.00</b>

A.A.C. Construction, LLC

BID ITEM SUMMARY OF COSTS

PROJECT NAME: *La Cienega Water System Improvements*

PROJECT NUMBER: 1001-31

DATE: 7/10/2016

BID ITEM NUMBER: C.O. 1

BID ITEM DESCRIPTION: *Add 10ft Bore Casing*

SUB-ITEMS

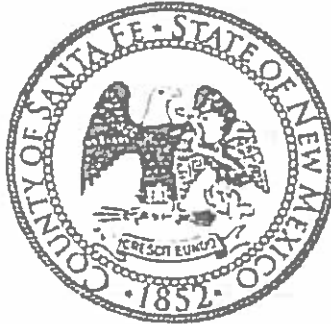
EQUIPMENT	<u>\$ 15.37</u>
LABOR	<u>\$ 82.50</u>
MATERIAL	<u>\$ -</u>
TRUCKING	<u>\$ -</u>
SUBCONTRACT	<u>\$ 1,540.00</u>

TOTAL ITEM: C.O. 1    TOTAL \$ 1,637.87





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



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

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

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

Hereafter "County":

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

Hereafter "Contractor":

Andrew Sisneros, Managing Member  
A.A.C. Construction, LLC  
18 La Luna Road  
Santa Fe, New Mexico 87507  
Telephone: (505) 471-2510  
Email: [Andrew@cnsnp.net](mailto:Andrew@cnsnp.net)

**ENGINEER**

NAME: Richard Morris  
ADDRESS: Morris Surveying & Engineering  
1216-A Parkway Drive  
Santa Fe, New Mexico 87507  
TELEPHONE: (505) 438-9100  
E-MAIL ADDRESS: [ram@morrissurvey.com](mailto:ram@morrissurvey.com)

## Table of Contents

	Page No
RECITALS .....	10
Article 1 The Contract Documents .....	10
1.1 Documents .....	10
1.2 Certificates and Documentation .....	10
Article 2 The Work .....	11
2.1 The Work .....	11
Article 3 Effective Date, Time of Commencement, Substantial Completion and Amendments .....	11
3.1 Effective Date .....	11
3.2 Time of Commencement .....	11
3.3 Substantial Completion .....	11
3.4 Time for Completion and Liquidated Damages .....	12
3.5 Amendments .....	13
Article 4 Contract Sum .....	13
4.1 Lump Sum .....	13
4.2 Contract Amount .....	13
Article 5 Progress Payments .....	14
5.1 Progress Payments .....	14
Article 6 Final Payment .....	15
6.1 Final Payment .....	15
6.2 Acceptance of Final Payment Constitutes Release .....	15
GENERAL CONDITIONS	
1. Definitions .....	17
1.1 Application for Payment .....	17
1.2 Change Order .....	17
1.3 Calendar Day .....	17
1.4 Contract Period .....	17
1.5 Contractor .....	17
1.6 Construction Documents .....	17
1.7 Construction Schedule .....	17
1.8 Day .....	17
1.9 Labor and Material Payment Bond .....	17

1.10	Lump Sum Agreement.....	18
1.11	Lump Sum Bid.....	18
1.12	Lump Sum Contract.....	18
1.13	Payment Bond.....	18
1.14	Performance Bond.....	18
1.15	Progress Payment.....	18
1.16	Progress Schedule.....	18
1.17	Punch List.....	18
1.18	Schedule of Values.....	18
1.19	Services.....	18
1.20	Stipulated Sum Agreement.....	19
1.21	Subcontractor.....	19
1.22	Unit Price Contract.....	19
1.23	Unit Prices.....	19
1.24	Working Day.....	19
1.25	Work on the Project.....	19
2.	Contract and Contract Documents.....	19
2.1	Entire Agreement.....	19
2.2	Relationship of Contract Documents.....	19
2.3	Conflicting Conditions.....	19
3.	Plans, Specifications and Addenda.....	20
3.1	The plans, specifications and addenda.....	20
3.2	Certificates and Documents Incorporated.....	20
4.	Contract Security - Bonds.....	20
4.1	Performance Bond.....	20
4.2	Payment Bond.....	20
4.3	Additional or Substitute Bond.....	20
4.4	Labor and Material Bond.....	20
5.	Terms and Meanings.....	20
5.1	Words and Phrases.....	21
5.2	Gender, Singular/Plural.....	21
5.3	Captions & Section Headings.....	21
5.4	Interchangeable Terms.....	21
6.	Compliance with Applicable Law, Choice of Law.....	21
6.1	Agreement governed by the laws of the State of New Mexico.....	21
6.2	Contractor shall comply with all applicable laws, ordinances & regulations.....	21
6.3	Minimum Wage Rate.....	21

6.4	Litigation shall be federal and state district courts of New Mexico .....	21
6.5	Bribes, Kickbacks and Gratuities.....	21
6.6	New Mexico Tort Claims Act.....	21
6.7	Provision Required by Law Deemed Inserted .....	22
7.	Effective Date & Term.....	22
7.1	Agreement shall become effective.....	22
7.2	Substantial Completion.....	2
8.	Termination.....	22
8.1	Termination of Agreement for Cause .....	23
8.2	Termination for Convenience .....	23
8.3	Right of the County to Terminate Contract .....	23
9.	Appropriations & Authorizations .....	23
10.	Amendments – Change Orders .....	23
11.	Indemnification .....	23
11.1	Contractor shall indemnify .....	23
11.2	County shall have right to control and participate in defense of demand or suit .....	24
11.3	Contractor's obligations shall not be limited by provisions of insurance policy .....	24
12.	Aggrievement Procedure During Contract Administration .....	24
12.1	Claims, Disputes or other matters.....	24
12.2	Settlement Agreement.....	24
12.3	Contractor shall carry on Work during dispute resolution proceedings .....	24
13.	Dispute Resolution.....	24
13.1	Mediation .....	24
13.2	Mediation Process.....	24
13.3	Litigation.....	25
14.	Insurance .....	25
14.1	Insurance required before contractor commences work .....	2
14.2	Proof of Carriage of Insurance.....	25
14.3	General Conditions .....	25
14.4	General Liability Insurance, including automobile .....	25
14.5	Subcontractor's Public Liability & Property Damage Insurance .....	25
14.6	Worker's Compensation Insurance.....	25
14.7	Scope of Insurance and Special Hazards .....	26

14.8	Builder's Risk Insurance.....	26
14.9	Increased Limits.....	26
14.10	Additional Insured .....	26
15.	Independent Contractor.....	26
15.1	Contractor and its agents are independent contractors .....	26
15.2	Contractor shall not subcontract without written approval .....	27
15.3	Contractor shall maintain detailed time records .....	27
16.	Conflict of Interest of Officers or Employees of the Local Jurisdiction.....	27
16.1	No officer or employee shall have any interest shall have any interest.....	27
16.2	No official of the County shall be interested personally in this contract.....	27
16.3	Contractor warrants no conflict of interest .....	27
17.	Assignment .....	27
17.1	Contractor shall not assign or transfer any interest in this Agreement .....	27
18.	Subcontracting .....	28
18.1	Contractor shall not subcontract without written notice to County .....	28
18.2	Contractor shall provide listing of subcontractors .....	28
18.3	Contractor shall adhere to all provisions of Subcontractor's Fair Practices Act.....	28
18.4	Contractor shall provide Non-Collusion and EEO forms for all subcontractors .....	28
18.5	Contractor shall not award any work without written notice to County .....	28
18.6	Contractor shall be responsible for acts and omissions of subcontractors.....	28
18.7	Contractor shall cause appropriate provisions in all subcontracts .....	28
18.8	Nothing shall create contractual relation between County and subcontractors .....	28
18.9	New Mexico Little Miller Act .....	28
19.	Personnel.....	29
19.1	All work performed by Contractor .....	29
19.2	Contractor shall secure all qualified personnel required to perform work .....	29
20.	Notices .....	29
20.1	Notice required shall be in writing.....	29
20.2	Nothing shall preclude the giving of written Notice .....	29
21.	Release .....	29
22.	Waiver.....	29

## CONDITIONS OF THE WORK

1.	Additional Instructions & Detail Drawings .....	31
1.1	Additional instructions & drawings as necessary .....	31
2.	Shop or Setting Drawings .....	31
2.1	Contractor shall submit copies of shop or setting drawing .....	31
3.	Materials, Services and Facilities .....	31
4.	Contractor's Title to Materials .....	31
4.1	No materials or supplies shall be purchased by subject to chattel mortgage .....	31
5.	Inspection and Testing of Materials .....	32
5.1	All material and equipment shall be subject to adequate inspection .....	32
5.2	Materials of construction shall be subject to inspection and testing .....	32
6.	"Or Equal" Clause .....	32
6.1	To establish a standard .....	32
7.	Patents .....	32
7.1	Patented or Unpatented Invention .....	32
7.2	License or Royalty Fees .....	32
7.3	Copyrighted Design .....	32
8.	Surveys, Permits and Regulations .....	33
8.1	County will furnish all surveys .....	33
8.2	Contractor shall procure and pay all permits, licenses and approvals .....	33
8.3	Contractor shall comply with all laws, ordinances, rules orders & regulations ....	33
9.	Contractor's Obligations .....	33
9.1	Contractor shall perform all work and furnish all materials, equipment, machinery .....	33
9.2	Contractor shall complete entire work .....	33
10.	Weather Conditions .....	33
10.1	Temporary suspension of Work .....	33
11.	Protection of Work and Property - Emergency .....	34
11.1	Contractor shall safeguard County's property .....	34
11.2	Emergency which threatens loss or injury of property .....	34
11.3	Contractor shall act as instructed or authorized .....	34
11.4	Reimbursement claimed by Contractor .....	34
12.	Inspection .....	34

12.1	County shall be permitted to inspect all work, materials, payrolls, records .....	34
13.	Reports, Records and Data.....	34
13.1	Contractor shall submit to County schedules, payrolls, reports, estimates.....	34
14.	Superintendent by Contractor .....	34
14.1	Contractor shall employ a construction superintendent.....	34
15.	Changes in Work.....	35
15.1	No changes in Work without written approval .....	35
16.	Extras .....	35
16.1	County may order extra Work .....	35
17.	Inspection of Services .....	35
17.1	Contractor shall provide inspection system .....	35
17.2	County has the right to inspect and test all services .....	35
17.3	Contractor shall furnish all reasonable facilities and assistance .....	35
17.4	If any services do not conform with Contract requirements.....	36
17.5	County may perform the services and charge Contractor.....	36
18.	Correction of Work.....	36
18.1	Work shall be made good if failure to meet County approval.....	36
19.	Warranty of Construction .....	36
19.1	Warrants that Work conforms with Contract requirements.....	36
19.2	One year warranty.....	36
19.3	Contractor shall remedy any failure to conform .....	36
19.4	Contractor shall restore any Work damaged.....	37
19.5	County shall notify Contractor of any failure, defect or damage .....	37
19.6	If Contractor fails to remedy.....	37
19.7	Contractor shall obtain all warranties, executed in writing .....	37
19.8	Contractor's warranty has expired .....	37
19.9	Defect in County furnished material or design.....	37
19.10	County's rights under the Inspection and Acceptance Clause.....	37
20.	Subsurface Conditions Found Different .....	37
20.1	Subsurface conditions materially differing from plans and specifications.....	37
21.	Claims for Extra Cost.....	37
21.1	No claim for extra work or cost .....	37
22.	Construction Schedule and Periodic Estimates.....	38
22.1	Estimated construction progress schedule .....	38

22.2	Progress Schedule .....	38
23.	Assignments.....	38
23.1	Contractor shall not assign.....	38
24.	Mutual Responsibility of Contractors.....	38
24.1	Acts of Negligence.....	38
25.	Separate Contract.....	39
25.1	Coordination with other contractors .....	39
26.	Architect/Engineer's Authority.....	39
26.1	Orders & Directions to execution of the Work.....	39
26.2	Decisions concerning meaning and intent .....	39
27.	Stated Allowances.....	39
27.1	Contract sum for all allowances.....	39
28.	Use of Premises and Removal of Debris .....	40
28.1	Contractor undertakes at own expense .....	40
29.	Quantities of Estimate.....	40
29.1	Increase and decrease of estimated quantities .....	40
30.	Lands and Right-of-Way.....	40
30.1	County shall obtain all lands and rights-of way.....	40
31.	General Guaranty .....	40
31.1	Work not done in accordance with contract documents .....	40
32.	Protection of Lives and Health .....	41
32.1	Protection of persons and property .....	41
33.	Interest of Member.....	41
33.1	BCC shall not have any share or interest .....	41
34.	Other Prohibited Interests .....	41
34.1	No County official or others to be personally interested in Contract .....	41
35.	Use & Occupancy Prior to Acceptance by County.....	41
35.1	Partial Occupancy by County.....	41
	Attachment A Bid Sheets .....	42
	Attachment B Addenda and Modifications.....	43
	Attachment C Project Manual Including Specifications for Construction.....	44
	Attachment D Engineer Stamped Design Drawings .....	



Exhibit B	Technical Specifications .....	45
Exhibit C	Labor and Material Payment Bond .....	46
Exhibit D	Performance Bond .....	48
Exhibit E	Assignment of Antitrust Claims.....	50
Exhibit F	Certificate of Liability Insurance .....	51
Exhibit G	Notice of Contract Award .....	52
Exhibit H	Notice to Proceed .....	53
Exhibit I	Change Order) .....	54
Exhibit J	Certificate of Substantial Completion .....	56

## RECITALS

WHEREAS, in accordance with Section 13-1-103 through Section 13-1-110 NMSA 1978, the County issued Invitation for Bid (IFB) No. 2016-0169-PW/MM for the La Cienega Waterline Improvements;

WHEREAS, the Contractor submitted its bid, dated January 15, 2016 in response to IFB No. 2016-0169-PW/MM; and

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

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

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

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

## ARTICLE 1 THE CONTRACT DOCUMENTS

### 1.1 DOCUMENTS

The contract documents consist of the following:

- Agreement between County and Contractor
  - General Conditions of the Construction Contract
  - Conditions of the Work of the Construction Contract
  - Bid Sheet
  - Addenda and Modifications issued before and after execution of this Contract
  - Project Manual Including Specifications for Construction
  - Engineer Stamped Design Drawings
  - Technical Specifications as listed in Plan Set
- Attachment A  
Attachment B  
Attachment C (Exhibit A)  
Attachment D  
Attachment E (Exhibit B)
- All Specifications Referenced in Other Contract Documents, including
    - American Water Standards Specifications (AWWA Specifications), latest published revision;
    - New Mexico Standard Specifications for Public Works Construction (NMAPWA Specifications) latest published revision;

- ASTM Standards; and
- New Mexico Department of Transportation Standards Specifications for road and bridge construction (NMDOT Specifications) latest published revision; provided, however, that those sections of Division 100 that are not listed in Article 12 of this Agreement are excluded from the Contract Documents; provided further, that for purposes of this Agreement, the following terms used in the NMDOT Standard Specifications shall have the following meanings:

“Cabinet Secretary” or “Secretary” shall mean the County Manager;

“Engineer” shall mean the Engineer listed on the first page of this Agreement; and

“Department” shall mean the County.

## 1.2 CERTIFICATES AND DOCUMENTATION

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

Technical Specifications as listed in Plan Set	Exhibit A (Attachment E)
Labor and Material Payment Bond	Exhibit B
Performance Bond	Exhibit C
Assignment of Antitrust Claims	Exhibit D
Certificate of Insurance	Exhibit E
Notice of Award	Exhibit F
Notice to Proceed	Exhibit G
Change Order	Exhibit H
Certificate of Substantial Completion	Exhibit I

## ARTICLE 2 THE WORK

### 2.1 THE WORK

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

The project consists of extending approximately 7025 linear feet of 8-inch waterline and installation of approximately 1490 linear feet of 2” waterline, all work located in the La Cienega area of Santa Fe County at the west end of Paseo de C. de Baca to serve residents on Camino Loma, Cielo del Oeste and Camino La Lomita. The pipeline installation shall connect into an existing 8” line in three locations located in Paseo C. de Baca. Construction will also include all appurtenances, including but not limited to, fire hydrants, water valves and water meter cans. There will be several culvert crossings and two arroyo crossings. New construction will be crossing both private property and Santa Fe County owned land and will be mainly located within existing roadways.

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

#### 3.1 EFFECTIVE DATE

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

#### 3.2 TIME OF COMMENCEMENT

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

#### 3.3 SUBSTANTIAL COMPLETION

The Contractor shall achieve Substantial Completion of the entire work no later than Eighty Four (84) working days from the date of the Notice to Proceed, except as hereafter extended by valid written Change Order. A Certificate of Substantial Completion, attached hereto as Exhibit J, will be issued by the County to the Contractor, as adjusted by any Change Order, attached hereto as Exhibit I.

#### 3.4 TIME FOR COMPLETION AND LIQUIDATED DAMAGES

Should the Contractor neglect, refuse, or otherwise fail to complete the Work within the time specified in this Article, the Contractor agrees that Liquidated Damages in the amount of Five Hundred dollars (\$500.00) shall be assessed per each calendar day that expires after the date of substantial completion, as adjusted by any change order, and until issuance by the County of a certificate of Substantial Completion in accordance with Paragraph 7 EFFECTIVE DATE AND TERM of the General Conditions.

- A. It is hereby understood and mutually agreed, by and between the Contractor and the County, that the date of beginning and the time for completion as specified in the contract of the work to be done hereunder are *essential conditions* of this contract and it is further mutually understood and agreed that the work outlined in this contract shall be commenced on a date to be specified in the "Notice to Proceed."
- B. The Contractor agrees that work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Contractor and the County, that the time for the completion of the work described herein is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.
- C. If the Contractor shall neglect, fail or refuse to complete the work within the time herein specified or any proper extension thereof granted by the County, then the

Contractor does hereby agree, as a part consideration for the awarding of this contract, to pay to the County the amount specified in the contract, not as a penalty but as liquidated damages for such breach of contract as herein set forth, for each and every calendar day that the contract shall be in default after the time stipulated in the contract for completing the work.

- D. The amount is fixed and agreed upon by and between the Contractor and the County because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the County would in such event sustain, and the amount is agreed to be the amount of damages which the County would sustain and the amount shall be retained from time to time by the County from current periodical estimates.
- E. It is agreed that time is of the essence of each and every portion of this contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever and where under the contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this contract. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the County determines that the Contractor is without fault and the Contractor's reasons for the time extension are acceptable to the County. Provided that the Contractor shall not be charged with liquidated damages or any excess cost when the delay in completion of the work is due:
  - 1. To any preference, priority or allocation order duly issued by the County;
  - 2. To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, or of the public enemy, acts of the County, acts of another contractor in the performance of a contract with the County, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather;
  - 3. To any delays of subcontractors or suppliers occasioned by any of the causes specified in subsections above.
- F. Provided further, that the Contractor shall, within ten (10) days from the beginning of such delay, unless the County shall grant a further period of time prior to the date of final settlement of the contract, notify the County in writing of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

### 3.5 AMENDMENTS

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

## ARTICLE 4 CONTRACT SUM

### 4.1 LUMP SUM

The County shall pay the Contractor in current funds for the performance of the Work, subject to additions and deductions by Change Order as provided in the Contract Documents, an agreed upon Lump Sum of Three Hundred Fifty Nine Thousand Dollars and No Cents (\$359,000.00), exclusive of New Mexico gross receipts tax.

### 4.2 CONTRACT AMOUNT

The Contract sum is determined as follows:

Base Bid	\$ 359,000.00
List Alternates, if applicable	\$
	\$
	\$
<b>Total Contract Amount</b>	<b>\$ 359,000.00</b>

## ARTICLE 5 PROGRESS PAYMENTS

### 5.1 PROGRESS PAYMENTS

Based upon an Application for Payment submitted to the County by the Contractor and Certificates for Payment issued by the County, the County shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

- A. No later than twenty one (21) working days following receipt by the County of an undisputed Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and one hundred percent (100%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the County; less such amounts as the Architect/ Engineer shall determine for all incomplete Work and unsettled claims as provided in the Contract Documents (Section 57-28-5, NMSA 1978).
- B. When making payments, the County, Contractor or subcontractor shall not retain, withhold, hold back or in any other manner not pay amounts owed for work performed. For additional information regarding retainage and the Prompt Payment Act (refer to Section 57-28-5, NMSA 1978).

- C. Contractors and subcontractors shall make prompt payment to their subcontractors and suppliers for amounts owed for work performed on the construction project within twenty-one days after receipt of payment from the County, contractor or subcontractor. If the contractor or subcontractor fails to pay its subcontractor and suppliers by first-class mail or hand delivery within twenty-one days after receipt of an undisputed request for payment, the contractor or subcontractor shall pay interest to its subcontractors and suppliers beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers (Section 57-28-1 et. seq. NMSA 1978).
- D. In preparing estimates the material delivered on the site and preparatory work done may be taken into consideration.
- E. All material and work covered by partial payments made shall thereupon become the sole property of the County, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of the County to require the fulfillment of all of the terms of the contract.
- F. County's right to withhold certain amounts and make application thereof. The Contractor agrees that it will indemnify and hold the County harmless from all claims growing out of the lawful demands of subcontractors, laborers, workmen, mechanics, material men, and furnisher of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this contract. The Contractor shall, at the County's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If the Contractor fails so to do, then the County may, after having served written notice on the said Contractor, either pay unpaid bills, of which the County has written notice, direct, or withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the Contractor shall be resumed, in accordance with the terms of this contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the County to either the Contractor or its Surety. In paying any unpaid bills of the Contractor, the County shall be deemed the agent of the Contractor, and any payment so made by the County shall be considered as a payment made under the contract by the County to the Contractor and the County shall not be liable to the Contractor for any such payments made in good faith.

## ARTICLE 6 FINAL PAYMENT

### 6.1 FINAL PAYMENT

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

### 6.2 ACCEPTANCE OF FINAL PAYMENT CONTITUTES RELEASE

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


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

SANTA FE COUNTY

  
Katherine Miller  
Santa Fe County Manager

5-26-16  
Date

APPROVED AS TO FORM

  
Gregory S. Shaffer  
Santa Fe County Attorney

5-24-16  
Date

FINANCE DEPARTMENT APPROVAL:

  
Carole H. Jaramillo  
Santa Fe County Finance Director

5/25/16  
Date



CONTRACTOR:

*Andrew Sisneros*  
Signature

5-26-16  
Date

Andrew Sisneros  
Print Name

Managing Member  
Print Title

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

**1.0 DEFINITIONS**

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

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

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

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

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

## 2. CONTRACT AND CONTRACT DOCUMENTS

- 2.1 *Entire Agreement.* This Agreement represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this Agreement, and all such conditions, understandings, and agreements have been merged into this written Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless incorporated in this written Agreement.
- 2.2 *Relationship of Contract Documents.* The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

- 2.3 **Conflicting Conditions.** Any provisions in any of the Contract Documents which may be in conflict or inconsistent with any of the paragraphs in these General Conditions shall be void to the extent of such conflict or inconsistency.

### 3. **PLANS, SPECIFICATIONS AND ADDENDA**

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

### 4. **CONTRACT SECURITY – BONDS**

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

## 5. TERMS AND MEANINGS

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

- 5.1 Words and Phrases. Words, phrases, and abbreviations which have well-known technical or trade meanings used in the Contract Documents shall be used according to such recognized meanings. In the event of a conflict, the more stringent meaning shall govern.
- 5.2 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 5.3 Captions and Section Headings. The captions and section headings contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope and conditions of this Agreement.
- 5.4 Interchangeable Terms. For purposes of all provisions within this Agreement and all attachments hereto, the terms "Agreement" and "Contract" shall have the same meaning and shall be interchangeable.

## 6. COMPLIANCE WITH APPLICABLE LAW, CHOICE OF LAW

- 6.1 This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of New Mexico and applicable ordinances of Santa Fe County.
- 6.2 In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations, including Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).
- 6.3 Minimum Wage Rates. The Contractor, all subcontractors and subsubcontractors warrants and agree to will comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act as outlined in the Bid Documents. Wage rates are not applicable to projects costing less than \$60,000.
- 6.4 This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be federal and state district courts of New Mexico.
- 6.5 Pursuant to 13-1-191, NMSA 1978, reference is hereby made to the criminal laws of New Mexico, including §30-14-1, §30-24-2, and §30-41-1 through 3 NMSA 1978, which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code, 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation.
- 6.6 New Mexico Tort Claims Act. By entering into this Agreement, neither party shall be

responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et Seq. NMSA 1978, as amended. The County and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

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

## 7. EFFECTIVE DATE AND TERM

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

## 8. TERMINATION

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

less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

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

## 9. APPROPRIATIONS AND AUTHORIZATIONS

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

## 10. AMENDMENTS – CHANGE ORDERS

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

## 11. INDEMNIFICATION

- 11.1 The Contractor shall defend, indemnify, and hold harmless the County and its elected



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

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

## **12. AGGRIEVEMENT PROCEDURE DURING CONTRACT ADMINISTRATION**

- 12.1 Any claims, disputes, or other matters in question between the Contractor and the County, except those which have been waived by the making or acceptance of final payment as provided in Paragraph 6.2 of the Agreement Between Santa Fe County and Contractor for Construction, shall be presented in the form of a written request accompanied by supporting data to the Architect/Engineer for formal decision, with a copy to the other party. Such formal decision of the Architect/Engineer is binding upon the Contractor and the Owner unless either or both notify each other and the Architect/Engineer in writing within fifteen (15) days of their receipt of the decision that they are unwilling to abide by the Architect's/Engineer's decision, are thereby aggrieved in connection with the decision, and are separately exercising such rights as either may have under the Contract Documents or by law and regulation. If the Architect/Engineer fails to provide a written decision or a reasonable schedule to issue a written decision within ten (10) days after the County or the Contractor has presented its request, that party may consider itself aggrieved and may proceed to exercise its rights.
- 12.2 The disposition and resolution of any claims, disputes, or other matters in question between the Contractor and the County that are not waived as provided in 12.1 above will be in accordance with NMDOT Standard Specifications, Divisions 101.1 through 101.4, 102.6, 102.7, 103.8 through 104.1, 104.3 through 105.20.1, 106.1 through 107.9, 107.11 through 107.24, 107.26 through 107.28, 108.1 through 108.6, 108.9 and 108.10, 109.8, 109.10 through 109.11, and any other sections referenced in those sections.
- 12.3 A settlement agreement signed by the County and the Contractor shall supersede and cancel any other dispute resolution proceedings regarding the same matter.
- 12.4 Unless work is stopped or payment withheld in accordance with the conditions of the Contract, or unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any dispute resolution proceedings, and the Owner shall

continue to make payments to the Contractor in accordance with the Contract Documents.

### 13. DISPUTE RESOLUTION

- 13.1 Either County or Contractor may request mediation pursuant to the New Mexico Public Works Mediation Act, 13-4C-1 NMSA 1978, of any claim before such decision become final and binding. The request for mediation shall be submitted in writing to the other party. Timely submission of the request shall stay the effect of Paragraph 12.1.
- 13.2 County and Contractor shall participate in the mediation process in good faith. The process shall be completed within Sixty (60) days of filing of the request. The mediation shall be governed by the rules for mediation pursuant to the New Mexico Public Works Mediation Act.
- 13.3 If the dispute is not resolved by mediation, the dispute shall be resolved through litigation in the district court. The parties agree that the exclusive forum for such litigation shall be the State of New Mexico District Court for the First Judicial District at Santa Fe, New Mexico. Contractor irrevocably consents to the jurisdiction of said Court and agrees to accept service of a summons and complaint by mail or commercial courier service in accordance with Rule 1-004(E) (3) NMRA.

### 14. INSURANCE

- 14.1 The Contractor shall not commence work under this contract until they have obtained all the insurance required under this paragraph and such insurance has been approved by the County, nor shall the Contractor allow any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been so obtained and approved.
- 14.2 Proof of Carriage of Insurance. The Contractor shall furnish the County with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions".
- 14.3 General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- 14.4 General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual

liability coverage under which this Agreement is an insured contract. The Santa Fe County shall be a named additional insured on the policy.

- 14.5 Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance. The Contractor shall require each of its subcontractors to procure and to maintain during the life of its subcontract, Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified in 14.4 above.
- 14.6 Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act, 52-1-1 to 52-1-70 NMSA 1978. The Contractor shall procure and shall maintain during the life of this contract Workmen's Compensation Insurance as required by applicable State law for all of its employees to be engaged in work at the site of the project under this Contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case any class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation law, the Contractor shall provide and shall cause each subcontractor to provide adequate employer's liability insurance for the protection of such of its employees as are not otherwise protected.
- 14.7 Scope of Insurance and Special Hazards. The insurance require under subparagraphs 14.4 and 14.5 hereof shall provide adequate protection for the Contractor and his subcontractors, respectively, against damage claims which may arise from operations under this Contract, whether such operations be by the insured or by anyone directly or indirectly employed by him and, also against any of the special hazards which may be encountered in the performance of this Contract.
- 14.8 Builder's Risk Insurance (Fire and Extended Coverage). Until the project is completed and accepted by the County, the County, or Contractor at the County's option is required to maintain Builder's Risk Insurance (fire and extended coverage) on a 100 percent completed value basis on the insurable portion of the project for the benefit of the County, the Contractor, subcontractors as their interests may appear. The Contractor shall not include any costs for Builder's Risk Insurance (fire and extended coverage) premiums during construction unless the Contractor is required to provide such insurance; however, this provision shall not release the Contractor from its obligation to complete, according to plans and specifications, the project covered by the contract, and the Contractor and his Surety shall be obligated to full performance of the Contractor's undertaking.
- 14.9 Increased Limits. If, during the life of this Agreement, the New Mexico State Legislature increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.
- 14.10 Additional insured. Santa Fe County will be listed as an additional insured on all policies,

and proof of coverage must be provided before work begins. Contractor shall maintain adequate insurance in at least the maximum amounts which the County could be liable under the New Mexico Tort Claims Act. It is the sole responsibility of the Contractor to be in compliance with the law.

## 15. INDEPENDENT CONTRACTOR

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

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

15.3 The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the County and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive illegal payments.

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

16.1 No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this contract, during its tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

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

16.3 The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the

performance or services required under this Agreement.

## 17. ASSIGNMENT

- 17.1 The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

## 18. SUBCONTRACTING

- 18.1 The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.
- 18.2 Contractor shall provide to the County a listing of subcontractors within ten (10) days of the Contract award.
- 18.3 Contractor shall adhere to all provisions of the Subcontractor's Fair Practices Act 13-4-31 to 13-4-42, NMSA 1978.
- 18.4 Contractor shall provide to the County completed Non-Collusion Affidavit of Subcontractor form and Certification of Subcontractor Regarding Equal Employment Opportunity form for all subcontractors listed.
- 18.5 The Contractor shall not award any work to any subcontractor without prior written approval of the County, which approval will not be given until the Contractor submits to the County a written statement concerning the proposed award to the subcontractor, which statement shall contain such information as the County may require.
- 18.6 The Contractor shall be as fully responsible to the County for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as they are for the acts and omissions of persons directly employed by them.
- 18.7 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the General Conditions and other contract documents insofar as applicable to the work of subcontractors and to give the Contractor the same power as regards terminating any subcontract that the County may exercise over the Contractor under any provision of the contract documents.
- 18.8 Nothing contained in this contract shall create any contractual relation between any subcontractor and the County.
- 18.9 All Work performed for Contractor by a Subcontractor or Supplier will be pursuant to an appropriate written agreement between Contractor and the Subcontractor or Supplier which

specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of County. Any contract between Contractor and a Subcontractor or Supplier shall provide that any remedy or claim for nonpayment of sums due or owing to Subcontractor or Supplier or services performed or materials provided is against Contractor and not County, subject to any remedy or rights Subcontractor or Supplier may have under the terms of the Contractor's Performance Bond and Section 13-4-19 NMSA 1978, the New Mexico Little Miller Act.

## 19. PERSONNEL

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

## 20. NOTICES

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

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

To the Contractor: A.A.C. Construction, LLC  
18 La Luna Road  
Santa Fe, New Mexico 87507

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

## 21. RELEASE

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

## 22. WAIVER

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

## CONDITIONS OF THE WORK

### 1. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

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

### 2. SHOP OR SETTING DRAWINGS

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

### 3. MATERIALS, SERVICES AND FACILITIES

- 3.1 It is understood that except as otherwise specifically stated in the Contract

Documents, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the work within the specified time.

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

#### **4. CONTRACTOR'S TITLE TO MATERIALS**

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

#### **5. INSPECTION AND TESTING OF MATERIALS**

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

#### **6. "OR EQUAL" CLAUSE**

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

#### **7. PATENTS**

- 7.1 The Contractor shall hold and save the County and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the County, unless otherwise specifically stipulated in the Contract Documents.



- 7.2 License and/or Royalty Fees for the use of a process which is authorized by the County of the project must be reasonable, and paid to the holder of the patent, or its authorized licensee, direct by the County and not by or through the Contractor.
- 7.3 If the Contractor uses any design, device or materials covered by letters, patent or copyright, the Contractor shall provide for such use by suitable agreement with the County of such patented or copyrighted design, device or material. It is mutually agreed and understood, that, without exception, the Contract prices shall include all royalties or costs arising from the use of such design, device or materials, in any way involved in the work. The Contractor and/or its Sureties shall indemnify and save harmless the County of the project from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials, or any trademark or copyright in connection with work agreed to be performed under this Contract, and shall indemnify the County for any cost, expense or damage which it may be obliged to pay by reason of such infringement at any time during the prosecution of the work or after, completion of the work.

## **8. SURVEYS, PERMITS AND REGULATIONS**

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

## **9. CONTRACTOR'S OBLIGATIONS**

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

## **10. WEATHER CONDITIONS**

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

## **11. PROTECTION OF WORK AND PROPERTY-EMERGENCY**

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

## **12. INSPECTION**

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

## **13. REPORTS, RECORDS AND DATA**

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

#### **14. SUPERINTENDENT BY CONTRACTOR**

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

#### **15. CHANGES IN WORK**

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

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

#### **16. EXTRAS**

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

#### **17. INSPECTION OF SERVICES**

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

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

17.3 If the County performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

17.4 If any of the services do not conform with the Contract requirements, the County may require the Contractor to perform the services again in conformity with Contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the County may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the Contract sum to reflect the reduced value of the services performed.

17.5 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, the County may by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the County that is directly related to the performance of such service, or terminate the Contract for default.

## 18. CORRECTION OF WORK

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

## 19. WARRANTY OF CONSTRUCTION

19.1 In addition to any other warranties in this Contract, the Contractor warrants that work performed under this Contract conforms to the Contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

19.2 This warranty shall continue for a period of one (1) year from the date of final acceptance of the work. If the County takes possession of any part of the work before final acceptance,

this warranty shall continue for a period of one (1) year from the date the County takes possession.

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

## **20. SUBSURFACE CONDITIONS FOUND DIFFERENT**

- 20.1 Should the Contractor encounter sub-surface and/or latent conditions at the site materially differing from those shown on the Plans or indicated in the Specifications, the Contractor shall immediately give notice to the Architect/Engineer/County of such conditions before they are disturbed. The Architect/Engineer/County will thereupon promptly investigate the conditions, and if they find that they materially differ from those shown on the Plans or indicated in the Specifications, they will at once make such changes in the Plans and/or

Specifications as they may find necessary, any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Paragraph 15 above.

## 21. CLAIMS FOR EXTRA COST

21.1 No claim for extra work or cost shall be allowed unless the same was done in pursuance of a written order of the Architect/Engineer approved by the County, as aforesaid, and the claim presented with the first estimate after the changed or extra work is done. When work is performed under the terms of General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost and when requested by the County, giving the County access to accounts relating thereto.

21.2 Delays Attributable to Utility Conflicts are Noncompensable.  
Contractor shall be responsible for verifying and locating all utilities for the project. The County shall not be responsible for costs incurred by the Contractor due to delays caused by utility owners in locating or relocating utilities within the project boundaries. Contractor shall be responsible for contacting all utility owners and coordinating all matters. Information on the drawings regarding location of utilities has been prepared from the most reliable data made available to the Engineer. This information is not guaranteed to be accurate or up-to-date. It is the Contractor's responsibility to determine the location, character and depth of all utilities.

Notwithstanding anything in the Contract Documents or NMDOT Standard Specifications seemingly to the contrary, Contractor acknowledges and agrees that Delays Attributable to utility conflicts are Noncompensable Delays, meaning the Contractor may receive an extension of time but not additional compensation.

## 22. CONSTRUCTION SCHEDULE AND PERIODIC ESTIMATES

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

### 22.2 Schedule

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit five (5) copies of a progress schedule covering project operations for the Contract period. This progress schedule shall be of the type generally referred to as a

Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the contractor to implement the CPM shall be borne by the Contractor.

### **23. ASSIGNMENTS**

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

### **24. MUTUAL RESPONSIBILITY OF CONTRACTORS**

- 24.1 If, through acts of neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration if such other Contractor or subcontractors will so settle. If such other Contractor or subcontractor shall assert any claim against the County on account of any damage alleged to have been sustained, the County shall notify the Contractor, who shall indemnify and save harmless the County against any such claim.

### **25. SEPARATE CONTRACT**

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

### **26. ARCHITECT/ENGINEER'S AUTHORITY**

- 26.1 The Architect/Engineer/County shall give all orders and directions contemplated under this Contract and specifications, relative to the execution of the work. The Architect/Engineer/County shall determine the amount, quality, acceptability, and fitness of the several kinds of work and materials which are to be paid for under this Contract and shall decide all questions which may arise in relation to said work and the construction

thereof. The Architect/Engineer/County's estimates and decisions shall be final and conclusive, except as herein otherwise expressly provided. In case any question shall arise between the parties hereto relative to said contract or specifications, the determination or decision of the Architect/Engineer/County shall be a condition precedent to the right of the Contractor to receive any money or payment for work under this Contract affected in any manner or to any extent by such question.

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

## 27. STATED ALLOWANCES

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

## 28. USE OF PREMISES AND REMOVAL OF DEBRIS

- 28.1 The Contractor expressly undertakes at its own expense:

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



## **29. QUANTITIES OF ESTIMATE**

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

## **30. LANDS AND RIGHTS-OF-WAY**

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

## **31. GENERAL GUARANTY**

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

## **32. PROTECTION OF LIVES AND HEALTH**

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

## **33. INTEREST OF MEMBER**

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

## **34. OTHER PROHIBITED INTERESTS**

- 34.1 No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept or approve, or to take part in negotiating, making accepting or approving any architectural, engineering, inspection, construction or material supply

contract or any subcontract in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of or for the County who is authorized in such capacity and on behalf of the County to exercise any legislative, executive, supervisory or other similar functions in connection with the construction of the project, shall become directly or indirectly interested personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the project.

### **35. USE AND OCCUPANCY PRIOR TO ACCEPTANCE BY COUNTY**

**35.1** The Contractor agrees to the use and/or occupancy of a portion or unit of the project before formal acceptance by the County, provided the County:

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

# ATTACHMENT A

## BID SHEETS



**BID SHEETS****IFB# 2016-0169-PW/MM  
LA CIENEGA WATERLINE IMPROVEMENTS**

Please offer your best price for the work required for the construction for La Cienega Waterline Improvements. The lump sum base bid must include pricing for materials, equipment, labor, travel, and fees for any required permitting. Be advised that award may be made without discussion with bidders on offers received.

**ITEM 1: LA CIENEGA WATERLINE IMPROVEMENTS**

LUMP SUM BASE BID: \$ 359,000.00  
(WRITTEN IN NUMBERS)

LUMP SUM BASE BID: \$ Three Hundred Fifty Nine Thousand Dollars  
(WRITTEN IN WORDS) and No Cents.

*(Exclusive of NM GRT and other applicable taxes)*



**ATTACHMENT B**  
**ADDENDA & MODIFICATIONS**





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

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

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



**Kathleen Holian**  
*Commissioner, District 4*

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

**Katherine Miller**  
*County Manager*

January 8, 2016

**SANTA FE COUNTY**  
**IFB#2016-0169-PW/MM**  
**La Cienega Waterline Improvements**

**ADDENDUM #2**

Dear Proponents,

This addendum is issued to reflect the following immediately. It shall be the responsibility of interested bidders to adhere to any changes or revisions to the IFB as identified in this Addendum No. 2. This documentation shall become permanent and made part of the departmental files.

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

**THE FOLLOWING CLARIFICATIONS WILL NOT AFFECT PRICE. THE REVISED PLANS REFLECTING THESE CLARIFICATIONS WILL BE AVAILABLE TO THE AWARDED CONTRACTOR.**

- Clarification #1-** The sealed bids should be based on the plans, specifications and issued addenda provided.
- Clarification #2-** Sheet No. C2.1 – The profile view shows the ARV at Sta. 13+10; however, it is not at the correct location in the plan view and the correct location will be provided to the awarded contractor. This does not affect price.
- Clarification #3-** Sheet No. C2.2 – The plan view indicates that the water valve is located at Sta. 31+20 and 22.5° bend is located at Sta. 31+20.23; however the bend is shown before the water valve.
- Clarification #4-** Sheet No. C3.1 – The profile view shows the gate valve at Sta. 53+17 at the end of the East side of the arroyo crossing and before the 3 gate valves at the 8" tee at Sta. 53+70.54. The gate valve is to be installed at Sta. 53+17.

**Clarification #5-** Sheet No. C3.1 and C3.2 – The arroyo crossing on Sheet No. C3.1 shows cast iron pipe. The jack and bore process requires PVC inside a cast iron pipe.

**Clarification #6-** Sheet No. C3.2 – The gate valves at Sta. 58+34 and Sta. 59+43 are shown in the profile view but not in the plan view.

**Clarification #7-** Sheet No. C3.2 –The water meter locations on this sheet should be referred to on Sheet No. C1.2.

**Clarification #8-** Sheet No. C4.1 – The plan view indicates that an 8" tee with 3 gate valves are to be installed at Sta. 89+44 but is not shown on the profile view.

**Question# 1-** Will the engineer provide A CAD drawing for horizontal location of the proposed waterline?

**Answer# 1-** No.

**Question# 2-** Will the drawing include survey control points?

**Answer# 2-** No.

**Question# 3-** Is there any required As-Built information?

**Answer# 3-** Refer to Sheet C5.1 of the plans.

**Question# 4-** Sheet C1.2 shows 2" PVC waterline to Water Meters at Tract 3A-13A Camino Loma and 3B -13B Camino Loma. Can you clarify where the plans show this information?

**Answer# 4-** Yes, the 2" extension to Tract 3A and 3B is part of the project.

**Question# 5-** Please clarify the connection to the new 8" Distribution line call out. Will the 2" line and these services be part of this contract?

**Answer# 5-** Yes, the 2" line extensions and services shown on the plans will be part of the project.

Question# 6- Will Flush Hydrants be required at the end of all the 2" waterlines? Does this include Raven's ravine run as well as the Tract 3A-13A and 3B-13B Camino Loma run?

Answer# 6- Yes, flush hydrants are required at the end of all 2" extensions.

Question# 7- The Flush Hydrant Details call for 2" Brass nipples of varying length. Can you clarify the sizes since at the end of 2" PVC lines will the lines require 2" nipples?

Answer# 7- No, 2" brass nipples are called for and PVC nipples may not be substituted.

Question# 8- Will the Fire Hydrants require Santa Fe threads?

Answer# 8- No, both the fire hydrants and flush hydrants should use National Standard Thread.

Question# 9- Can you clarify do the plans call for an auger bore or a directional bore?

Answer# 9- The design specifications identify a "jack and bore process", this item is non-negotiable.

Question# 10- Can you explain what the plans are for the bores and the private bridge?

Answer# 10- The private bridge is not to be used by Contractors for any reason. The bridge is located on private property and anyone crossing the bridge will be guilty of trespassing on private property.

**THIS ADDENDUM CONCLUDES THE PERIOD FOR QUESTIONS, NO ADDITIONAL QUESTIONS WILL BE ANSWERED PER IFB SECTION 8 INTERPRETATIONS/ADDENDA.**

Please add this Addendum #2 to the original bid documents and refer to bid documents, hereto as such. This and all subsequent addenda will become part of any resulting contract documents and have effects as if original issued. All other unaffected sections will have their original interpretation and remain in full force and effect. Responders are reminded that any questions or need for clarification must be addressed to Maricela Martinez, Senior Procurement Specialist at [mmartinez@santafecountnm.gov](mailto:mmartinez@santafecountnm.gov).



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

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

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



**Kathleen Holian**  
*Commissioner, District 4*

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

**Katherine Miller**  
*County Manager*

January 6, 2016

**SANTA FE COUNTY**  
**IFB#2016-0169-PW/MM**  
**La Cienega Waterline Improvements**

**ADDENDUM #1**

Dear Proponents,

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

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**ATTACHMENT A: PRE-BID SIGN IN SHEET**

**ATTACHMENT B: REVISED DRAWINGS**

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

**Clarification #1-** Project is 70 working days Where working days are defined as every day except Saturdays, Sundays, and Holidays as specified in Section 101 of the NMDOT Standard Specifications.

**Question# 1-** Is the contractor responsible for compaction testing and staking?

**Answer# 1-** Contractor is responsible for all testing and staking.

**Question# 2-** Are any permits required?

**Answer# 2-** There are no permits required for this project.

**Question# 3-** Is this project on Santa Fe County Roads?

**Answer# 3-** A portion of the work is in a County road.

Question# 4- Is seeding required?

Answer# 4- Seeding is not required

Question# 5- Will contractor need to shut down water?

Answer# 5- Contractor will coordinate with County Project Manager and County Utilities Division to have water shut off for Contractor.

Question# 6- Will this project require a hot tap?

Answer# 6- Hot taps will not be used for this project.

Question# 7- What type of material is required?

Answer# 7- C-900 PVC

Question# 8- Is a SWPPP required?

Answer# 8- A SWPP is not required.

Question# 9- Where can contractors get water for the construction?

Answer# 9- Contractor is responsible for obtaining and delivering water to work site. The County has an automated bulk water facility at 35 Camino de Justicia.

Question# 10- Is there an allowance if the contractors run into rock?

Answer# 10- There is no allowance for excessive rock on this project.

Question# 11- What size pipe is required?

Answer# 11- Pipe sizes and lengths are identified on the design drawings.

Question# 12- The plans show arroyo crossings which are a 45 degree bend with 12 inch carrier pipe. Is the County looking to increase the water line to 16 inch?

Answer# 12- The design will be updated to include a 16" carrier pipe (casing) to accommodate the 45 degree bends. The water line size remains at 8".

Question# 13- Reeno blankets are they existing specs?

Answer# 13- The Reeno Blankets are being deleted from the design drawings.

Question# 14- Is the County requiring any surfacing on the roads?

Answer# 14- There is no resurfacing of the existing roads. The roads will only be required to be returned to existing conditions.

Question# 15- What are the water meter sizes?

Answer# 15- The water meters will all be 5/8" X 3/4". The Santa Fe County Utilities Division will install the actual water meters at a later date. The Contractor is responsible for the purchase and installation of the meter cans and meter setting equipment. Refer to the standard detail for additional information on the required equipment. It is understood that the County Project Manager may direct the Contractor to adjust the location of the meter cans (within the utility easement) based on the homeowners preference.

Question# 16- Can you provide a profile sheet for Camino Loma?

Answer# 16- The plan and profile for Camino Loma is on Sheets C-4.1 and C-4.2.

Question# 17- What is the weight rating of the private bridge?

Answer# 17- The weight rating is not known. The private bridge and not to be used by the Contractor.

Question# 18- What is the casing diameter?

Answer# 18- The casing diameter is 16 inches.

Question# 19- Is the casing going to be steel or HDPE?

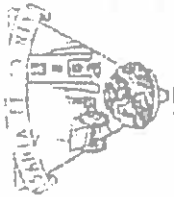
Answer# 19- Steel casing Schedule 30.

- Question# 20- What will the casing wall schedule be?
- Answer# 20- Refer to answer to Question #19.
- Question #21- Will domestic material be required for this project?
- Answer# 21- There is no domestic material requirement for this project.
- Question# 22- What entity or Agency is funding this project?
- Answer# 22- Project funding is under a Water Trust Board grant and Santa Fe County Funds.
- Question# 23- Plan sheet C2.1: at sta 13+10 Plans show an *AIR PRESSURE RELIEF VALVE*, we assume that this refers to the *1" AND 2" AIR VACUUM VALVE* detail shown on sheet C5.2. Is that correct? If so what size should this be 1" or 2"?
- Answer# 23- 1" is the correct size.
- Question# 24- Will the connections to the Existing Waterline on Paseo C de Baca be Pressure or Non-Pressure Connections? Will they require Tapping Sleeves or can we cut in Tees?
- Answer# 24- Cut in Tees are to be used to make these connections and SFCU will be able to shut down the main for 3 – 5 hour periods, as needed.
- Question# 25- What is the size and material of the existing watermain in Paseo C De Baca?
- Answer# 25- The main on Paseo C De Baca is an 8" PVC line.
- Question# 26- Plan sheet C3.1 and C3.2: Arroyo crossings call for *12" Restrained Joint Carrier Pipe*, which in this case connects to the 8" PVC. Will Reducers be required to Increase to 12" at these crossings? Or is the 12" Callout referring to a proposed casing?
- Answer# 26- See Answer #12.



- Question# 27- Plan sheet C3.2 and C3.3, and C4.1: CMP crossings callout "*Insulation per Manufacturer Requirements*", Please specify what this is.
- Answer# 27- This note has been deleted from the design drawings.
- Question# 28 - There are some parcels that do not show a Water Meter assembly (i.e. Lot 2-A, 14 Camino Loma), is this correct or should each parcel, or each existing residence get a Meter assembly?
- Answer# 28- Meter assemblies will be installed per design drawings.
- Question# 29- Plan sheet C1.2: Plan shows a 2" extension to 2" Water Meters for Lots on Ravens Ravine. This is not shown in profile, Will this work be part this contract? Is the call out for 2" Water Meter correct?
- Answer# 29- This is a 2" extension and is part of the scope of work. Meter assemblies are standard. See Answer #15.
- Question #30- Plan sheet C5.1: Fire Hydrant Detail shows 8" Pipe on the FH Leg. This is typically 6" per SF County standards, will 8" FH, 8" Valve and 8" Pipe be required, or will standard 6" appurtenances be acceptable?
- Answer# 30- This has been revised to be 6" per Santa Fe County Standard.

Please add this Addendum #1 to the original bid documents and refer to bid documents, hereto as such. This and all subsequent addenda will become part of any resulting contract documents and have effects as if original issued. All other unaffected sections will have their original interpretation and remain in full force and effect. Responders are reminded that any questions or need for clarification must be addressed to Maricela Martinez, Senior Procurement Specialist at [mcmartinez@santafecountnm.gov](mailto:mcmartinez@santafecountnm.gov).



PRE-BID CONFERENCE  
LA CIENEGA WATERLINE IMPROVEMENTS

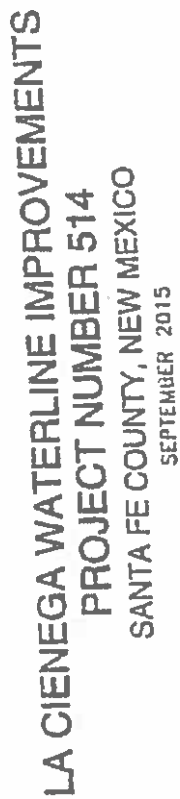
IFB #2016-0169-PW/MM  
FRIDAY, DECEMBER 18, 2015

2:00 PM

Attachment A

NAME	COMPANY	TELEPHONE	E-MAIL ADDRESS
Charles Spiess	SUNDANCE	(505) 375 2694	CHARLES.SUNDANCE@SUNDANCE.COM
Julie Rodriguez	AVI, INC.	505-247-4188	julie@avi-inc.com
Sam Hinton	Advisory & Engineering Solutions	505-986-1022	Sam.Hinton@Advisory.com
Harold Linder	Specialty Services	505-821-1031	
Ray S. (Sundance)	Fire Guard	505-554-1780	Ray.Sundance@FireGuard.com
Dave Melvin	South Fork County	505-986-6237	dave@co.southfork.nm.us
Steve T. (Sundance)	EXCEL	25-392-3340	Steve.T@Excel.com





### VICINITY MAP



**MOFARIS**  
Engineering

1100 + 1000 = 2100

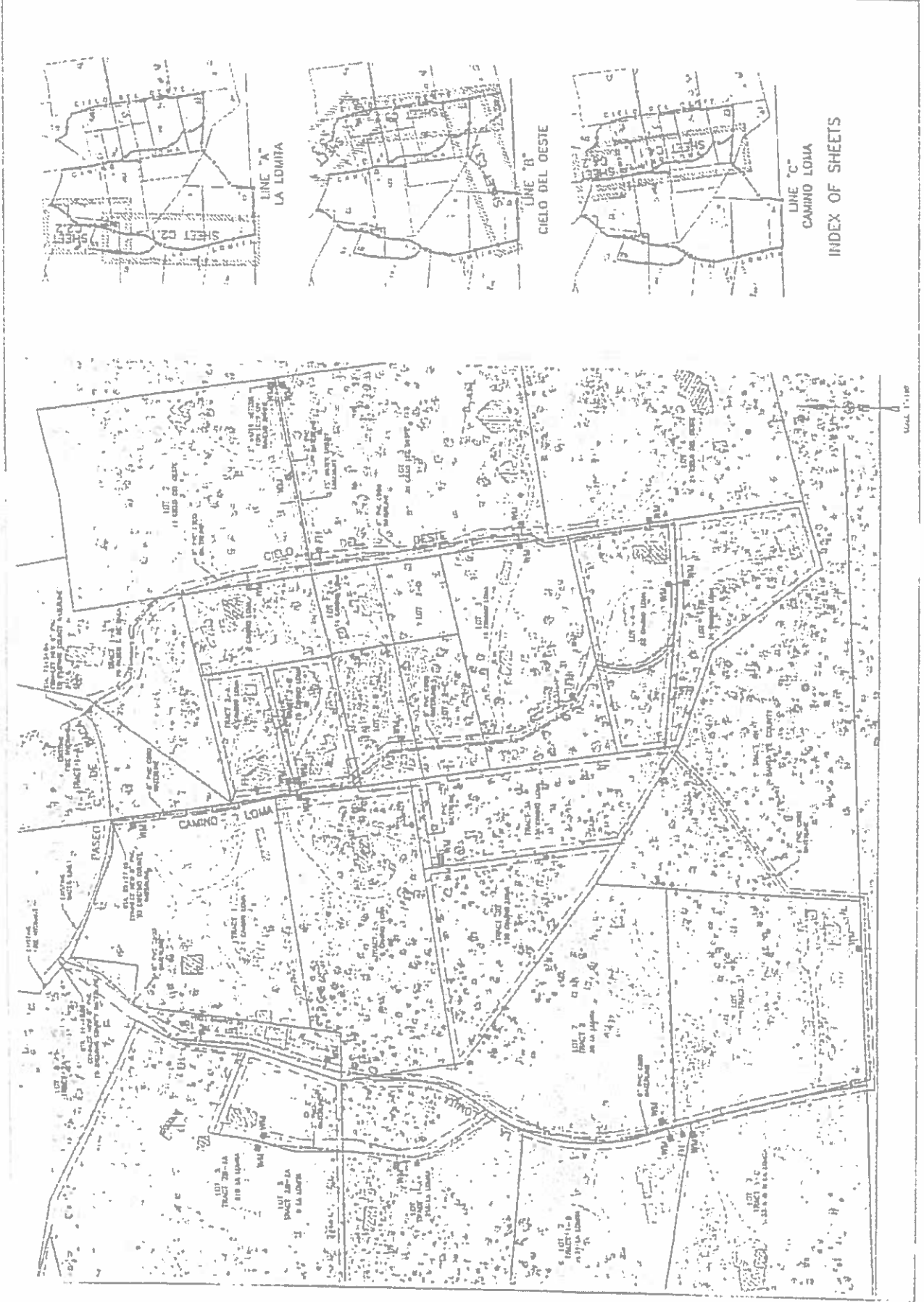
## SHEET INDEX

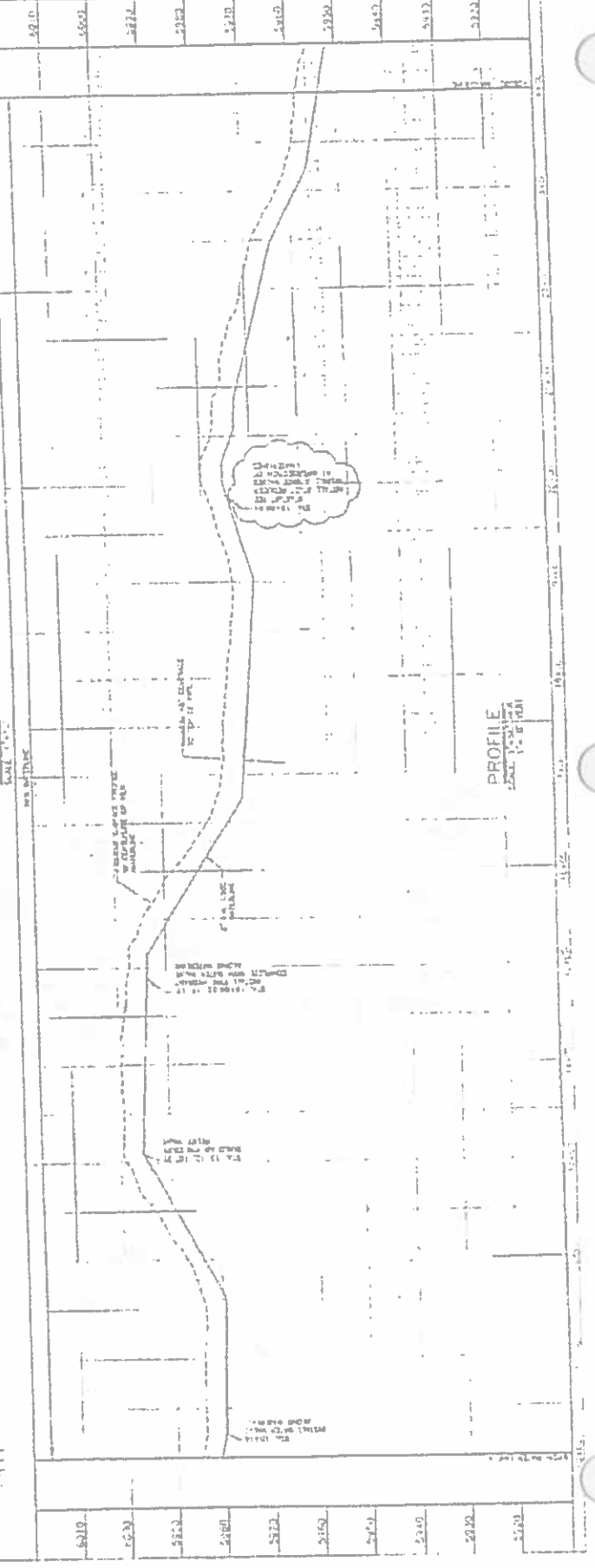
## 3111365

C-1	CEPHALOPODS / STYCHODONTID / H2024
C-1-2	STYCHODONTID
C-2-1	STYCHODONTID / STYCHODONTID / H2024
C-2-2	STYCHODONTID / STYCHODONTID / H2024
C-3-1	STYCHODONTID / STYCHODONTID / H2024
C-3-2	STYCHODONTID / STYCHODONTID / H2024
C-3-3	STYCHODONTID / STYCHODONTID / H2024
C-4-1	STYCHODONTID / STYCHODONTID / H2024
C-4-2	STYCHODONTID / STYCHODONTID / H2024
C-5-1	STYCHODONTID / STYCHODONTID / H2024
C-5-2	STYCHODONTID / STYCHODONTID / H2024

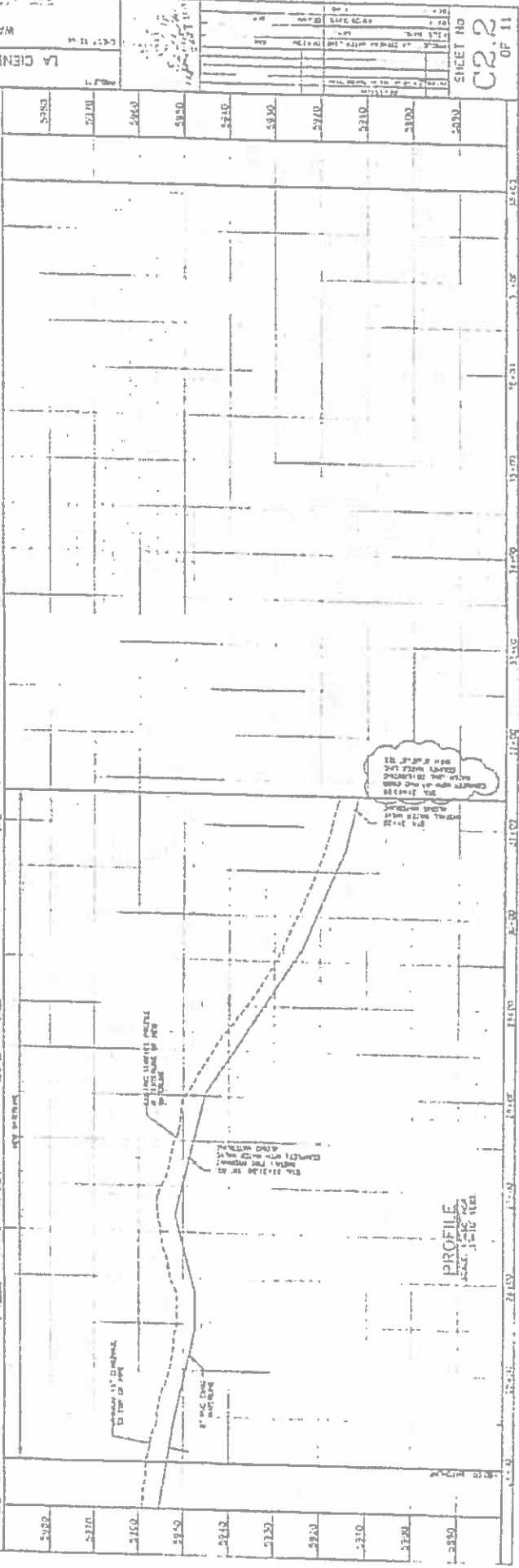
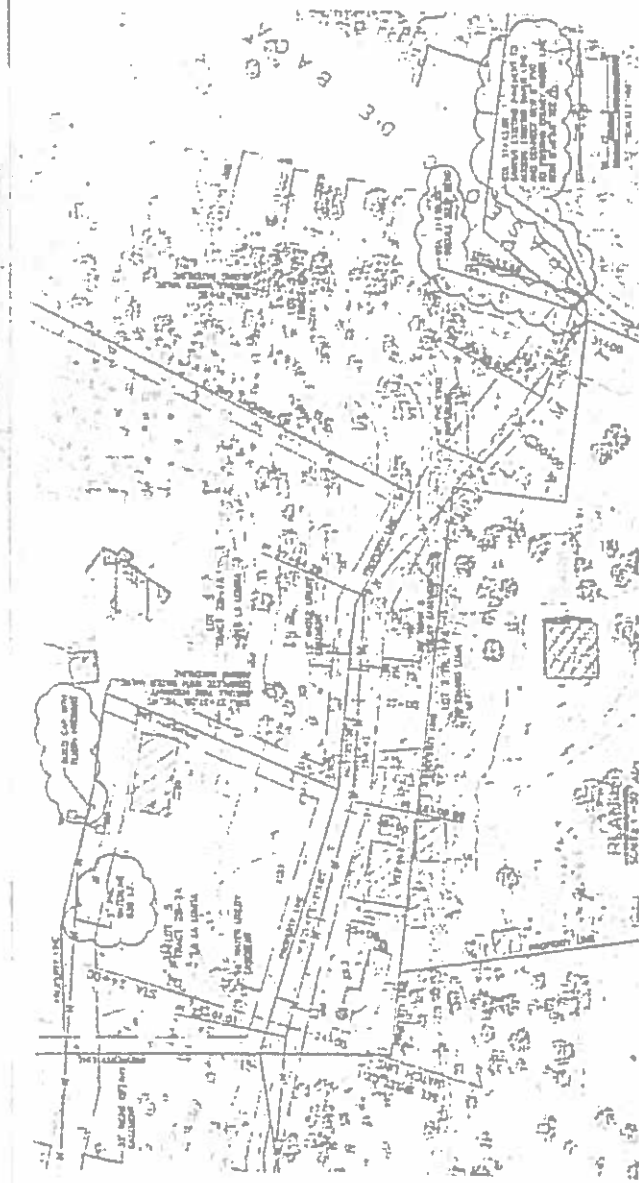
## DIRECTIONS TO SITE

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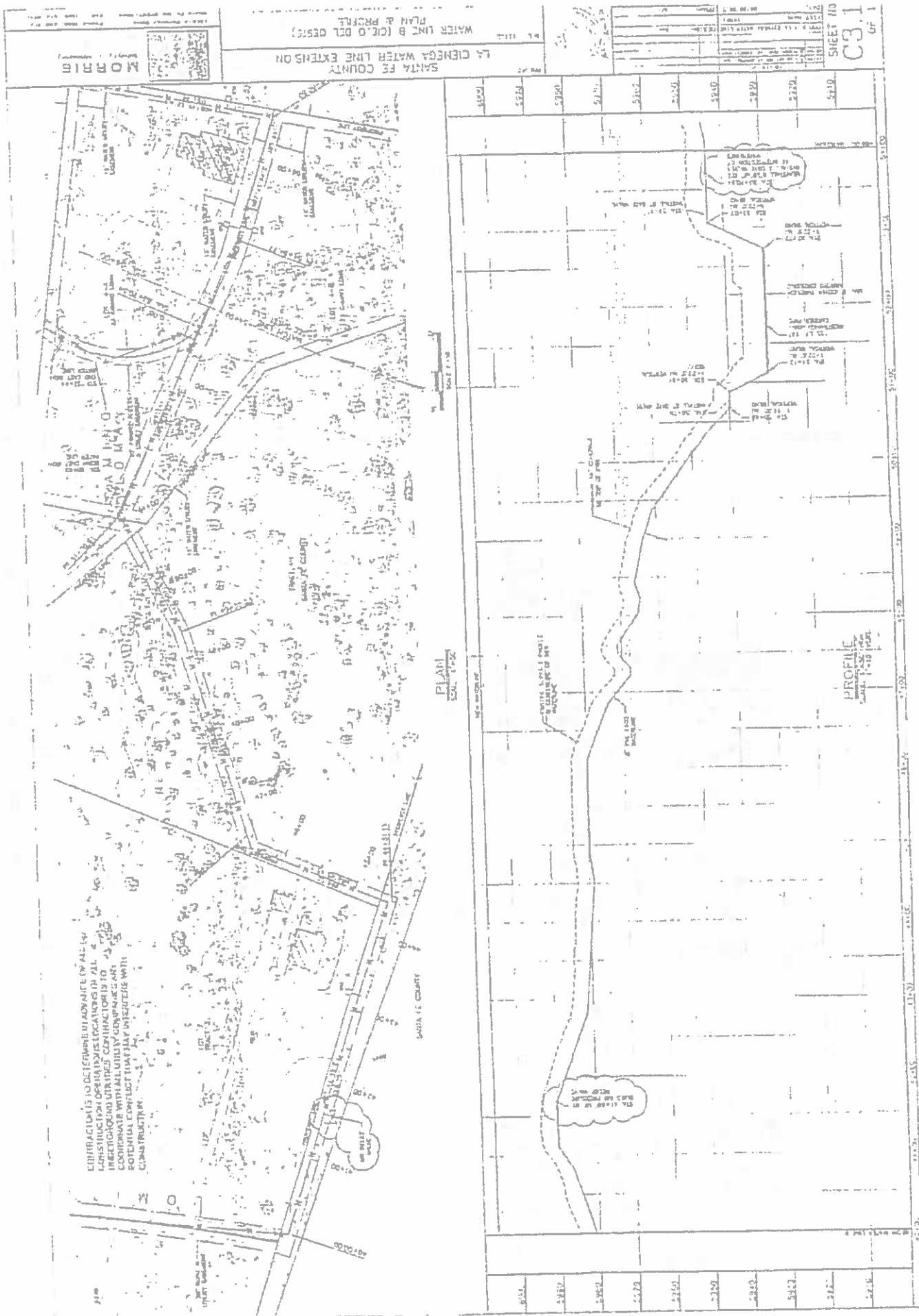
CONTRACTOR IS TO DETERMINE IN ADVANCE OF ALL  
CONSTRUCTION OPERATIONS LOCATION OF ALL  
UNDERGROUND UTILITIES. CONTRACTOR IS TO  
COORDINATE WITH ALL UTILITY COMPANIES ANY  
POTENTIAL CONFLICT THAT MAY EXIST PRIOR TO THE  
CONSTRUCTION.



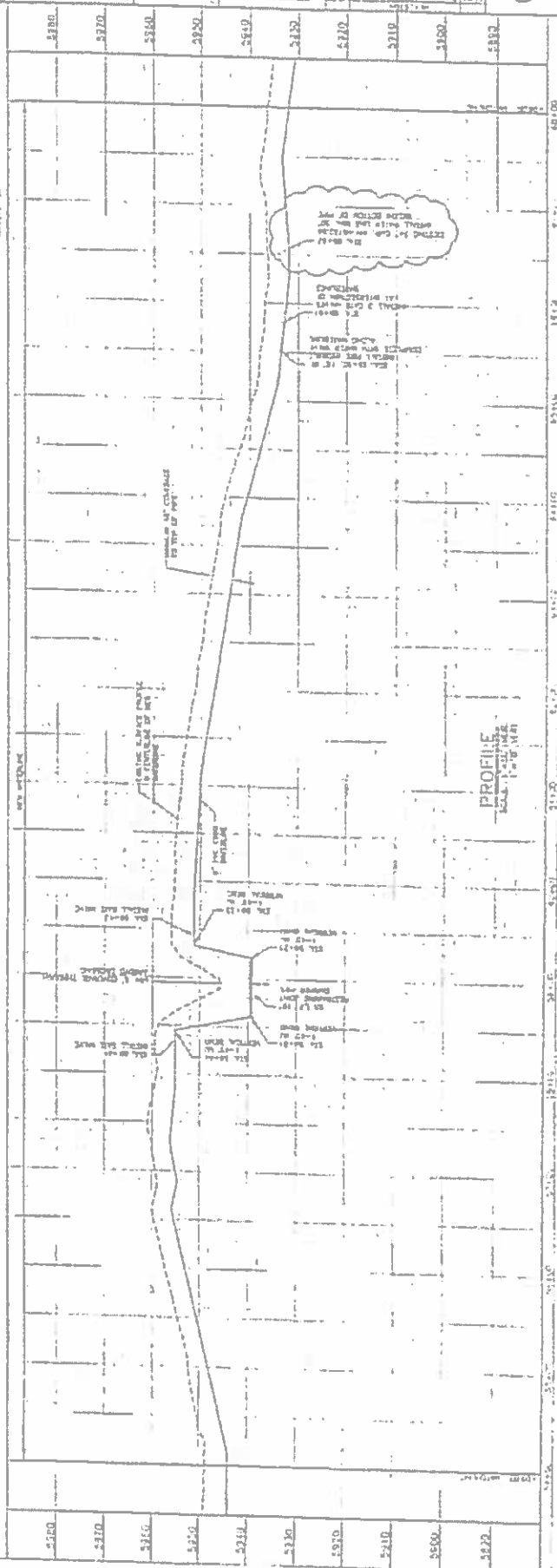
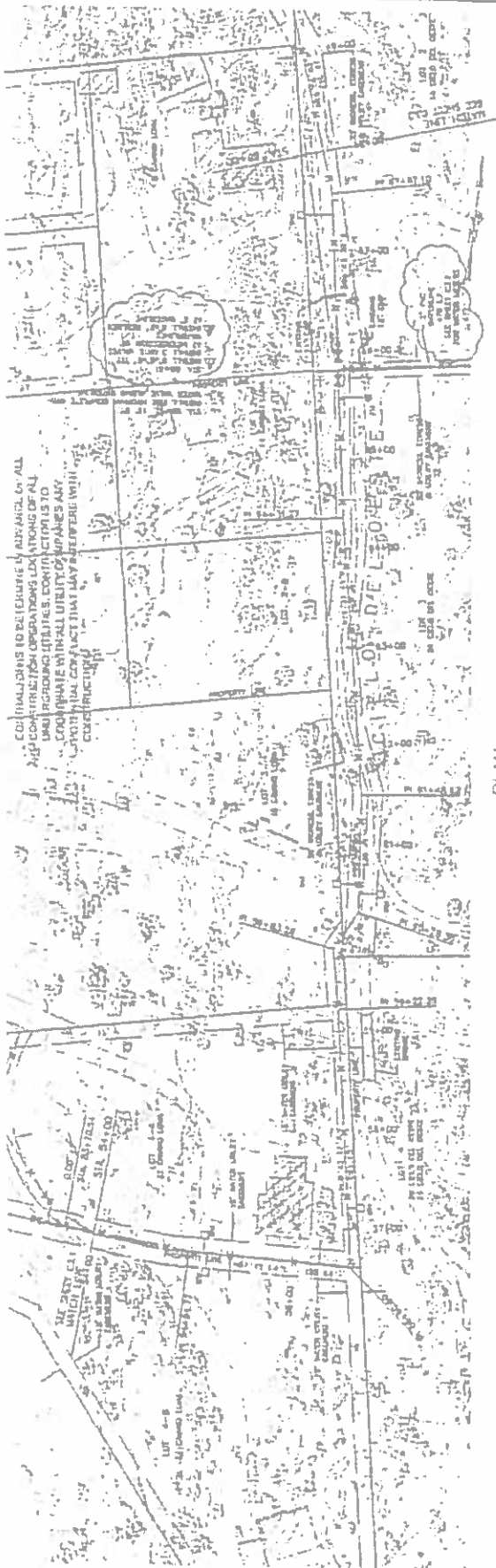
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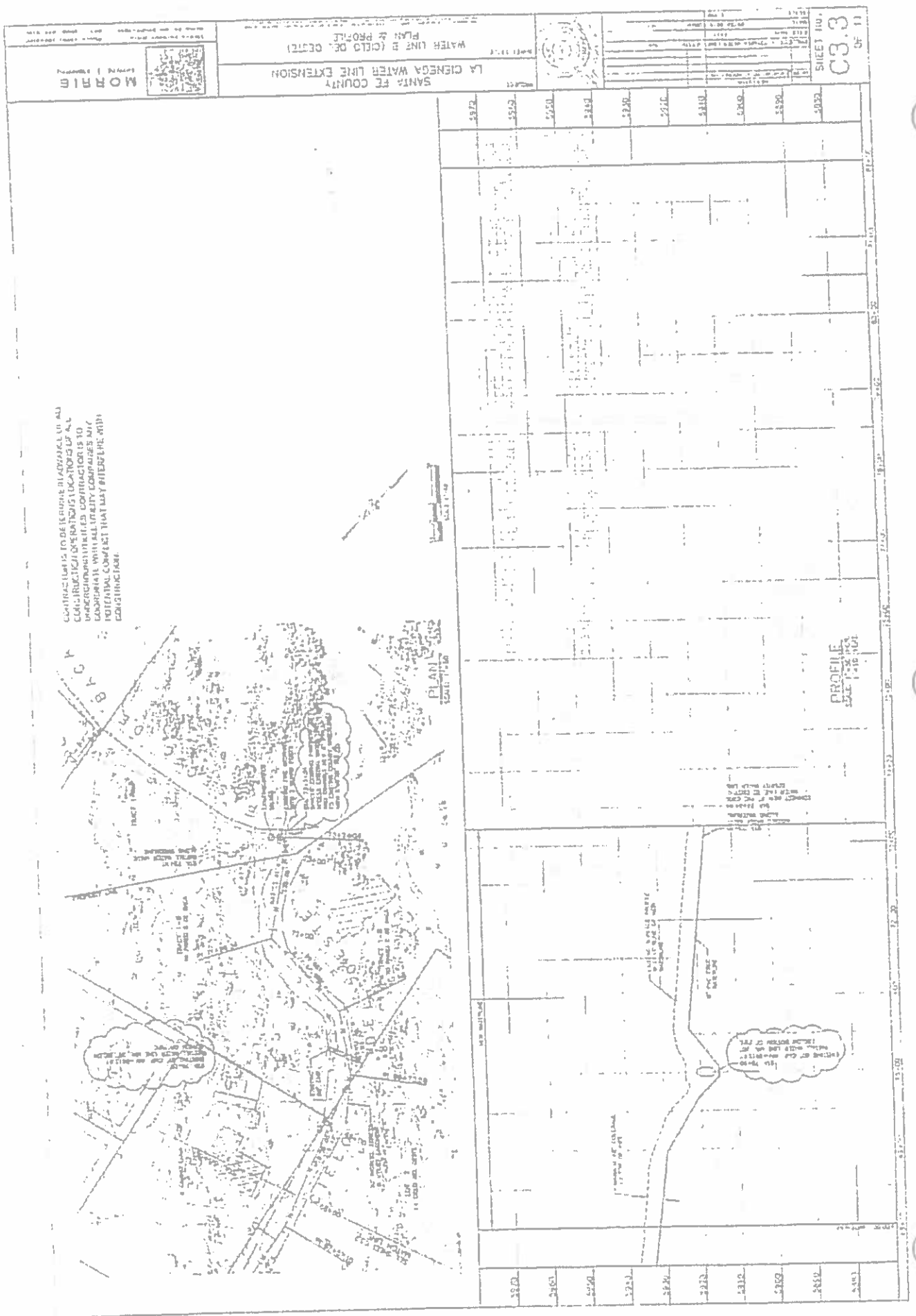
SANTA FE COUNTY  
 LA CIENEGA WATER LINE EXTENSION  
 PLAN & PROFILE

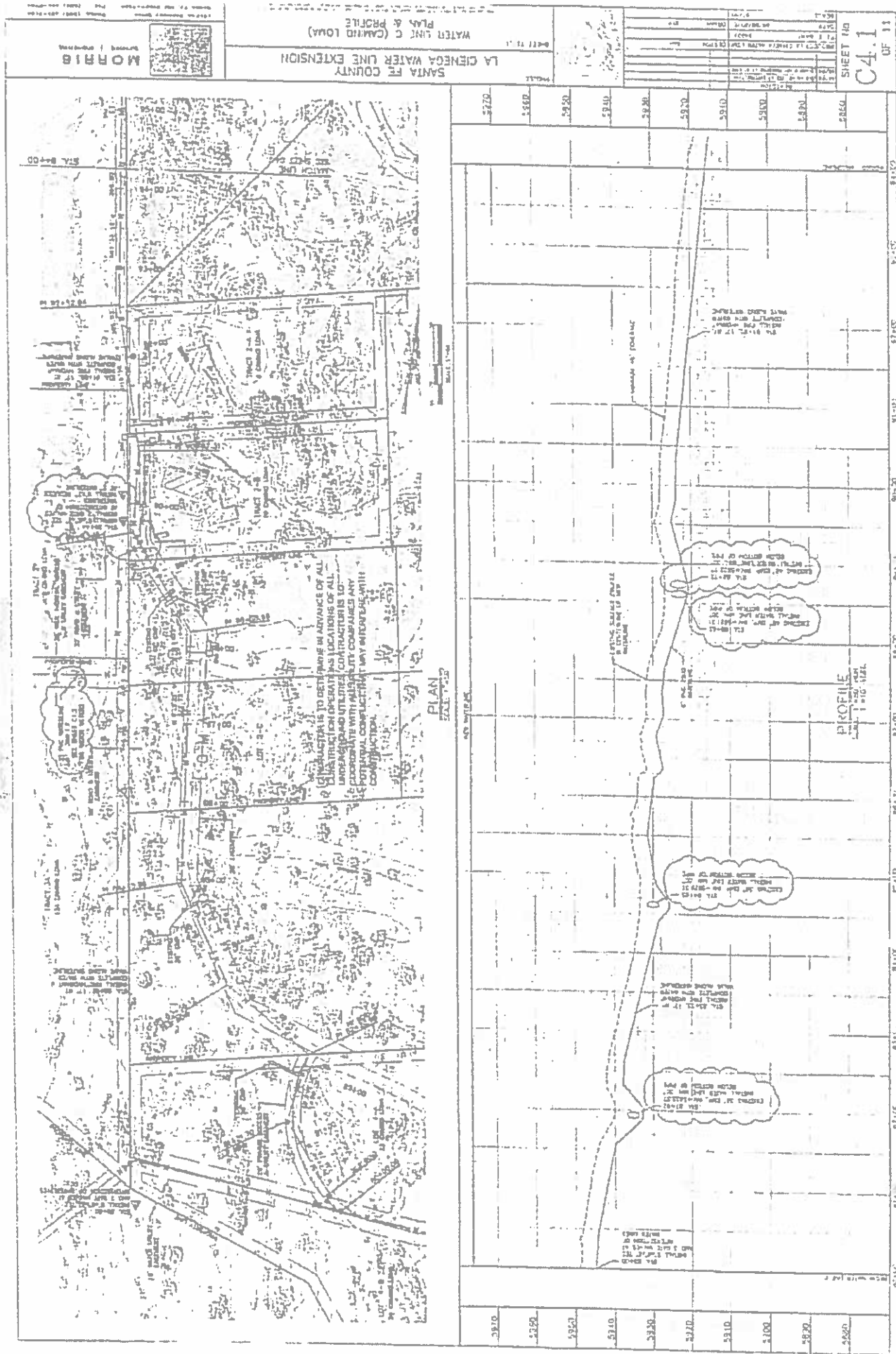
SHEET NO. C2.2  
 OF 11







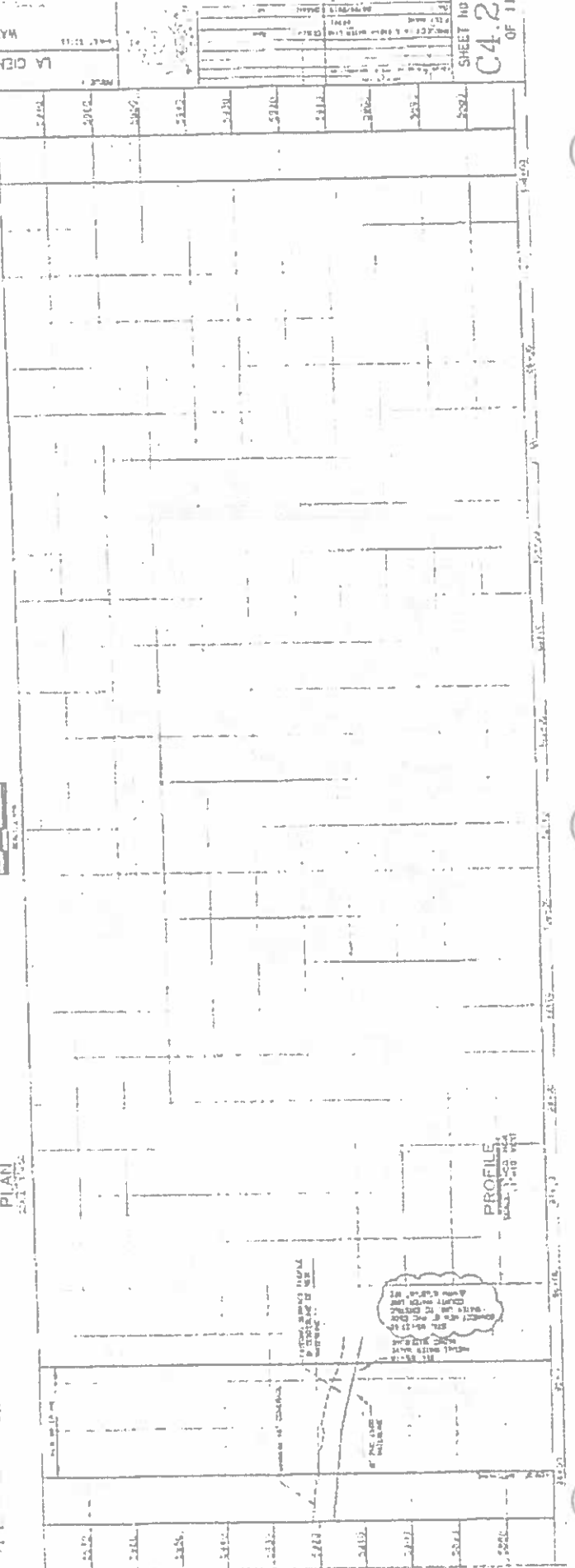
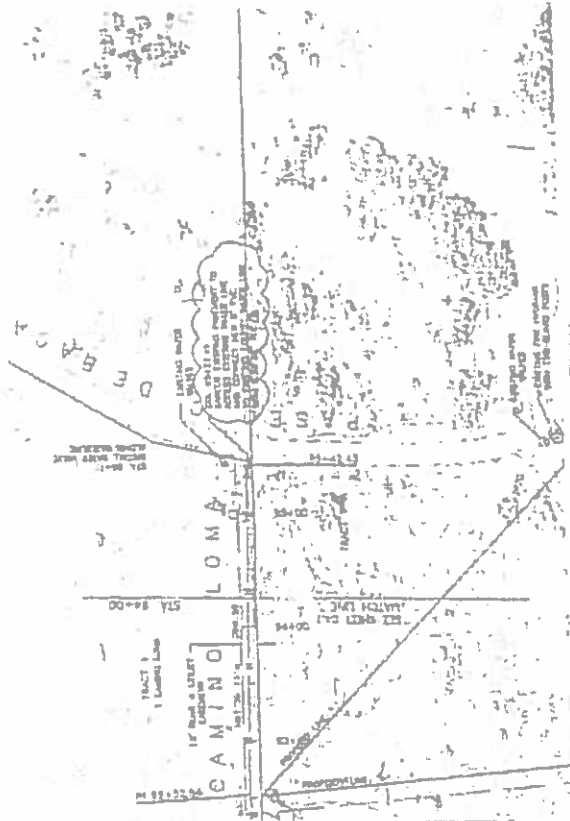




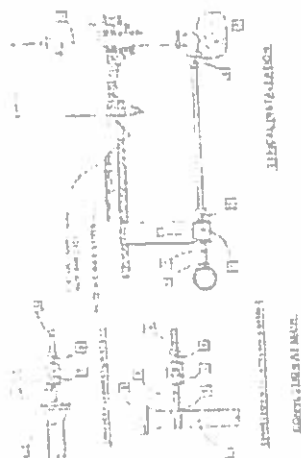
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SANTA FE COUNTY  
LA CENEGA WATER LINE EXTENSION  
WATER LINE C (CAMINO LOWE)  
PLAN & PROFILE

SHEET NO  
C4.2  
OF 11





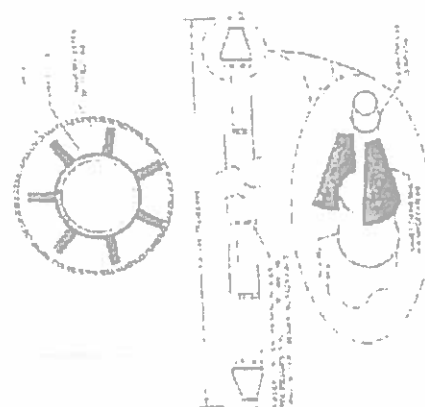


1. The first part of the document is a list of names and their corresponding addresses. The names are listed in the left column, and the addresses are listed in the right column. The names are: John Doe, Jane Smith, and Bob Johnson. The addresses are: 123 Main St, 456 Elm St, and 789 Oak St.

LONGER, 1923 AL MAR.

[illegible]

1141031

[illegible]

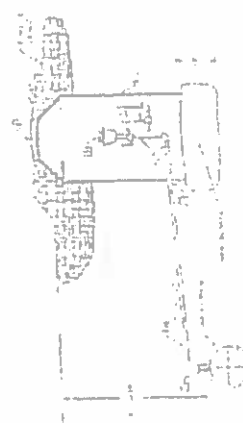
### THE CASE DETAIL

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GUT RESTRAINT TABLE



OUR RESISTANCE TALE



1" AIR VACUUM VALVE

[illegible]

**EXHIBIT A (ATTACHMENT C)**  
**PROJECT MANUAL**

## EXHIBIT B (ATTACHMENT E)

TECHNICAL SPECIFICATIONS AS LISTED IN PLAN SET



## EXHIBIT C

### LABOR AND MATERIAL PAYMENT BOND (SAMPLE)

KNOW ALL MEN BY THESE PRESENT, THAT WE \_\_\_\_\_

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

WHEREAS, the PRINCIPAL has a written contract dated \_\_\_\_\_, 2016, with the  
COUNTY for the construction services for the La Cienega Waterline Improvements in Santa Fe County,  
New Mexico, which must be constructed in accordance with drawings and specifications which contract  
is referenced and made a part hereof, and is hereinafter referred to as the "Contract."

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

1. A claimant is defined as one having a direct contract with the PRINCIPAL or with a  
subcontractor of the PRINCIPAL for labor, material, or both, used or reasonably required for  
use in the performance of the Contract, labor and material being construed to include but not  
be limited to that part of water, gas, power, light, heat, oil, gasoline, telephone services or  
rental of equipment directly applicable to the Contract.
2. The above named PRINCIPAL and SURETY hereby jointly and severally agree with the  
COUNTY that every claimant as herein defined, who has not been paid in full before the  
expiration of a period of ninety (90) days after the date on which the last of such claimant's  
work or labor was done or performed, or materials were furnished by such claimant,  
prosecute a suit to final judgment for such sum or sums as may be justly due claimant, and  
have execution thereof. The COUNTY shall not be liable for payment of any cost or  
expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
  - a. Unless claimant, or other than one having a direct contract with the PRINCIPAL,  
shall have written notice in the form of an sworn statement to the COUNTY and any  
one or both of the following: the PRINCIPAL or SURETY above named, within  
ninety (90) days after such said claim is made or suit filed, stating with substantial  
accuracy the amount claimed and the name of the party to whom the materials were  
furnished, or for whom the work or labor was done or performed.
  - b. Such notice shall be served by mailing the same by registered mail or certified mail,  
postage prepaid, in an envelope addressed to the COUNTY, PRINCIPAL or  
SURETY, at any place where an office is regularly maintained by said COUNTY,

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

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

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
CONTRACTOR – PRINCIPAL (signature)

By: \_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
NOTARY PUBLIC

(seal)

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
SURETY (signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
NOTARY PUBLIC

(seal)

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
SURETY'S Authorized New Mexico Agent

## EXHIBIT D

### PERFORMANCE BOND

(SAMPLE)

A. KNOW ALL MEN BY THESE PRESENT, THAT WE \_\_\_\_\_, as PRINCIPAL hereinafter called the "CONTRACTOR" and \_\_\_\_\_,

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

B. WHEREAS, the CONTRACTOR has a written contract dated \_\_\_\_\_, 2016, with the COUNTY for the construction services for the La Cienega Waterline Improvements in Santa Fe County, New Mexico, in accordance with drawings and specifications which contract is referenced made part hereof, and is hereinafter referred to as the "Contract."

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

1. The SURETY hereby waives notice of any alteration or extension of the Contract time made by the COUNTY.
2. Whenever CONTRACTOR shall be, and is declared by the COUNTY to be in default under the Contract, the COUNTY having performed the COUNTY'S obligations thereunder, the SURETY must promptly remedy the default and shall promptly:

(1) Complete the Contract in accordance with its terms and conditions, or

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

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

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

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
CONTRACTOR – PRINCIPAL (signature)

By: \_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
NOTARY PUBLIC

(seal)

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
SURETY (signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
NOTARY PUBLIC

(seal)

My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
SURETY'S Authorized New Mexico Agent

## EXHIBIT E

### ASSIGNMENT OF ANTITRUST CLAIMS

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

FIRM NAME:  
ADDRESS:

PROJECT:

PHONE NO.:

PROJECT NO:

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

FIRM: \_\_\_\_\_

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

TITLE: \_\_\_\_\_

**EXHIBIT F**  
**CERTIFICATE OF LIABILITY INSURANCE**

## EXHIBIT G

### NOTICE OF CONTRACT AWARD

TO:

FROM: \_\_\_\_\_, Public Works Department

CONTRACT NO. \_\_\_\_\_

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

Project Name: \_\_\_\_\_

Date of Award \_\_\_\_\_ Amount of Award \_\_\_\_\_

Contractor Information:

Firm Name: \_\_\_\_\_ License# \_\_\_\_\_

Address: \_\_\_\_\_ Phone # \_\_\_\_\_

It is anticipated that construction will take place:

Approximate Starting Date: \_\_\_\_\_ Approximate Completion Date: \_\_\_\_\_

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

SANTA FE COUNTY

Name of Public Works Director or designee: \_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Signature

## EXHIBIT H

### NOTICE TO PROCEED

TO:

DATE:

PROJECT:

ATTN:

PROJECT NO.

CONTRACT NO.

IFB NO.

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

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

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

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

OWNER:

Santa Fe County

SFC [redacted] DEPARTMENT

By:

[redacted]  
Director, SFC Department



## EXHIBIT I

### CHANGE ORDER

PROJECT:

CONTRACTOR  
CHANGE ORDER NO:

ARCHITECT/ENGINEER

PROJECT NO:

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

---

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

---

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

---

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

---

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

**CHANGE ORDER SIGNATURE PAGE**

**REVIEWED**

Santa Fe County

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

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

**AGREED AND RECOMMENDED**

CONTRACTOR

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

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

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

ARCHITECT/ENGINEER

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

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

**APPROVED**

SANTA FE COUNTY

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

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

## EXHIBIT J

### CERTIFICATE OF SUBSTANTIAL COMPLETION

SANTA FE COUNTY - (INSERT DEPARTMENT)

Public Works Director or designee (name): \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

Contractor Purchase Order Number: \_\_\_\_\_

ARCHITECT/ENGINEER: \_\_\_\_\_

Project Name: \_\_\_\_\_

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

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

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

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

Contractor

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

Accepted by Santa Fe County

\_\_\_\_\_  
Signature (Public Works Director or Designee)      Print Name      Date

Inspected/Concurrence Architect/Engineer

\_\_\_\_\_  
Signature      Print Name      Date

### PUNCH LIST

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

The Contractor shall complete or correct the work on the punch list appended hereto by

\_\_\_\_\_ (Date)

The punch list consists of \_\_\_\_\_ (indicate number of items) items.

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

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

Punch List Items: (Use additional sheets if necessary)





Henry P. Roybal  
Commissioner, District 1

Miguel M. Chavez  
Commissioner, District 2

Robert A. Anaya  
Commissioner, District 3



Kathy Holian  
Commissioner, District 4

Liz Stefanics  
Commissioner, District 5

Katherine Miller  
County Manager

**DATE:** August 31, 2016

**TO:** Board of County Commissioners

**FROM:** Colleen Baker, Project Manager

**VIA:** Katherine Miller, County Manager  
Michael Kelley, Public Works Department Director

**ITEM AND ISSUE:** Approval of Amendment #1 to Cooperative Agreement S100282 Between Santa Fe County and New Mexico Department of Transportation to Extend the Term of the Agreement for Construction of the Santa Fe Rail Trail. (Public Works/Mark Hogan)

---

**SUMMARY:**

The New Mexico Department of Transportation issued a cooperative agreement to Santa Fe County to partially support the construction of Segment #4 of the Santa Fe Rail Trail. The agreement will expire on September 30, 2016. This amendment extends the time of the cooperative agreement until March 31, 2017.

**BACKGROUND:**

This segment of the Rail Trail is under construction and will be completed and the project closed by the new expiration date of the agreement. There were delays receiving approvals from the granting agency so construction could not begin when requested.

**ACTION REQUESTED:**

Please approve the attached amendment to Cooperative Agreement S100282 to extend the term through March 31, 2017.

**Attachments:**

1. Letter requesting extension
2. Amendment #1 to Cooperative Agreement
3. Cooperative Agreement

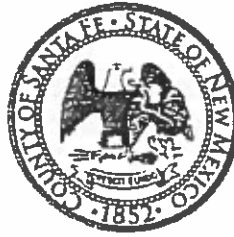




**Henry P. Roybal**  
*Commissioner, District 1*

**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*

August 2, 2016

Sean Sandoval  
Project Oversight Division  
New Mexico Department of Transportation  
1120 Cerrillos Road  
Santa Fe, NM 87504

RE: S100282 Cooperative Project Agreement

I am writing to request an amendment to the Cooperative Project Agreement for the Santa Fe Rail Trail Segment 4, CN S100282 to extend the term by six months to March 31, 2016. The term of the agreement currently expires on September 30, 2016. The project is under construction with an expected substantial completion date of November 29, 2016. The six month extension will allow sufficient time to complete construction and close out the project.

The PS&E review was held on August 13, 2014. Santa Fe County submitted the Agreement Request Form on September 18, 2014. I received the Cooperative Project Agreement from NMDOT on November 7, 2014 and routed it for signature. The County signed the agreement on November 25, 2014. I delivered the signed Cooperative Project Agreement to NMDOT on December 5, 2014.

NMDOT executed the Cooperative Project Agreement on August 25, 2015; nine months after the County signed the agreement. Santa Fe County received notice from NMDOT to move forward with the project on September 23, 2015.

Santa Fe County issued an Invitation for Bids on October 11, 2016. During the bidding process we discovered that some of the quantities on the Bid Schedule had not been updated to the final plan quantities. The Santa Fe County Purchasing Division made the determination to cancel the solicitation to avoid any potential dispute with the bids and issued a notice of cancellation on November 25, 2016.

Santa Fe County requested concurrence from NMDOT to re-advertise the Invitation for Bids on December 16, 2015. We received concurrence from FHWA on December 17, 2016. Santa Fe County advertised the re-bid on January 10, 2016. Bids were due February 29, 2016. Santa Fe County requested concurrence from NMDOT to award the construction contract on March 18, 2016. We received concurrence on March 28, 2016. Santa Fe County awarded the contract on May 26, 2016. The Pre-Construction Conference was held June 15, 2016. The County issued Notice to

Proceed on July 5, 2016. The contract time is 100 working days with substantial completion expected on November 29, 2016.

The Cooperative Project Agreement currently expires September 30, 2016 which does not allow sufficient time to complete the construction and close out the project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Colleen Baker', written over a horizontal line.

Colleen Baker  
Project Manager  
Santa Fe County Projects Division

Contract Number	D14909/1
Vendor Number	0000054297
Control Number	S100282

## FIRST AMENDMENT TO COOPERATIVE PROJECT AGREEMENT

This Amendment is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the New Mexico Department of Transportation (Department) and the County of Santa Fe (Public Entity), collectively referred to as the "Parties."

### RECITALS

**Whereas**, the Department and the Public Entity entered into a Cooperative Project Agreement on August 25, 2015, attached as Exhibit "A" and made part of this Amendment; and,

**Whereas**, page 10, Section 23, of the Agreement allows both parties to make alterations and revisions to the said Agreement; and,

**Whereas**, the Public Entity has requested a time extension in order to complete the project; and,

**Whereas**, it has become necessary to amend the Agreement and extend the termination date from September 30, 2016 to March 31, 2017; and,

**Whereas**, the Department and the Public Entity agree that the original Cooperative Project Agreement be amended.

In consideration of the covenants contained herein and pursuant to NMSA 1978, Section 67-3-28, and the Parties agree as follows:

1. Page 9, Section Twenty, delete in its entirety and insert the following:

1. This Agreement became effective on August 25, 2015. This Agreement shall terminate on **March 31, 2017**. Neither Party shall have any obligation after said date except as stated in Section 7 and 16.

2. Page 9, Section Twenty-one, delete in its entirety and insert the following:

This Agreement shall terminate on **March 31, 2017**. Neither Party shall have any obligation after said date unless otherwise provided in this agreement.

- a) The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed between the Public Entity and a contractor.
- b) The Department will review inactive projects on a quarterly basis. An inactive project is a project for which no expenditures have been charged against federal funds for the past three (3) months.
- c) If the Department determines a project to be inactive, the Department may, as directed by FIIWA, redirect the unexpended balance pursuant to 23 CFR Part 630.106.

- d) The Department may, at its option, terminate this Agreement if the Public Entity fails to comply with any provision of this Agreement. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of the Agreement.

Except for the above amendments the original Cooperative Project Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

In witness whereof, the Parties have set their hands and seal the day and year set forth below.

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy Secretary or Designee  
Programs & Infrastructure

**REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE  
DEPARTMENT'S OFFICE OF GENERAL COUNSEL**

By: *Cynthia A. Clark* Date: 8-31-16  
Assistant General Counsel

**COUNTY OF SANTA FE**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chairman of County Commission

**ATTEST**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
County Clerk

**APPROVED AS TO FORM BY THE COUNTY ATTORNEY**

By: *Robertal J. P. [Signature]* Date: 8-31-16  
County Attorney



Contract Number

D 14909

Vendor Number

0000054297

Control Number

S100282

## COOPERATIVE PROJECT AGREEMENT-CONSTRUCTION WORK

This Agreement is between the NEW MEXICO DEPARTMENT OF TRANSPORTATION ("Department"), and the County of Santa Fe ("Public Entity"), collectively referred to as the "Parties." This Agreement is effective as of the date of the last party to sign it on the signature page below.

In consideration of the covenants contained herein and pursuant to NMSA 1978, Section 67-3-28, the Parties agree as follows:

### 1. Purpose:

The purpose of this Agreement is to provide Federal Highway Administration (FHWA) funds to the Public Entity for a transportation project described in the Public Entity's Plans Specifications and Estimate Package (PS&E), the Project Identification Form (PIF) and the Statewide Transportation Improvement Program (STIP). The deliverables under this Agreement may be referred to as the "Construction Work" for the project, which is referred to interchangeably as "Project" or "Project Control No. S100282." The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. Additionally, the purpose of this Agreement is to ensure that the scope of work is maintained throughout the life of the Project.

### 2. Funding:

- a. The total funding for Project Control No. S100282, is Four Hundred Seventy One Thousand Two Hundred Thirteen Dollars (\$471,213) which will be shared by the Parties as follows:

#### 1. FFY 2015 TRANSP. ALT FLEXIBLE (TAPF) Funds

##### Department's 85.44% share

\$23,934

To construct Santa Fe Rail Trail segment 4 from Avenida Eldorado to Avenida Vista Grande. (Description as per STIP database and Agreement Request Form, this agreement only pertains to the construction portion of Project Control No. S100282.)

#### 2. County's matching 14.56% share

\$4,079

For the purpose stated above.

#### 3. The Total TAPF Funding

\$28,013

#### 4. FFY 2015 TRANSP. ALT RURAL AREA (TAPR) Funds

##### Department's 85.44 share

\$72,864

To construct Santa Fe Rail Trail segment 4 from Avenida Eldorado to Avenida Vista Grande. (Description as per STIP database and Agreement Request Form, this agreement only pertains to the construction portion of Project Control No. S100282.)

#### 5. County's matching 14.56%

\$12,417

- For the purpose stated above.
- 6. The Total TAPR Funding \$85,281
  - 7. Other Local Funds \$357,919  
 To construct Santa Fe Rail Trail segment 4 from Avenida Eldorado to Avenida Vista Grande. (Description as per STIP database and Agreement Request Form, this agreement only pertains to the construction portion of Project Control No. S100282.)
  - 8. The Total Local Funding \$357,919
  - 9. The Total Project (Construction Work) Funding \$471,213

- b. If current federal fiscal year funding is not obligated by September 30<sup>th</sup> of the current federal fiscal year, this Agreement shall terminate. Should this occur the Public Entity shall be solely responsible for all termination costs. However, if prior federal fiscal year funding has been authorized, this Agreement will remain in effect. If the Public Entity cannot meet the federal fiscal year deadline, and the money is reprogrammed for the next fiscal year, this Agreement will remain in effect.
- c. The Public Entity shall pay all Project costs that exceed the total funding amount specified in this section and all costs determined to be ineligible for reimbursement under the terms of the listed funding sources.
- d. FHWA's obligation of federal funds shall be supported by a certified cost estimate based on the Public Entity's Engineer's Estimate (EE). The EE shall be submitted to the Department's North Region T/LPA Coordinator prior to the PS&E Review pursuant to 23 CFR Part 630B.
- e. After the project is advertised, bids shall be submitted in accordance with the advertisement for bids. The Public Entity will open sealed bids in accordance with the Public Entity established procurement procedures. The Department will review the Public Entity's determination of lowest responsive bid to determine if the amount of federal funds obligated by the FHWA requires adjustment pursuant to 23 CFR Part 630.106. The Public Entity's responsive low bid for the project, including approved alternates, will be compared to the amount obligated. The Department will allow a 15% increase over the base bid and any approved alternates to cover Engineering and Contingencies and Gross Receipts Tax. If the difference between the FHWA's obligation amount and the responsive low bid plus the 15% is within \$250,000, the amount of funds obligated will not change. If the difference between the obligation amount and the responsive low bid plus the 15% exceeds \$250,000, the difference will be deducted reducing the amount of funds obligated.
- f. The Public Entity may not add additional work to the Project after the construction contract has been let in order to take advantage of any savings that might result from the lowest responsible bid being lower than the projected cost used to set the obligation. State and Federal law do not allow additional work to be added to a project as a change order unless such work could not have been reasonably anticipated at the time of letting and such work is necessary to the completion of the project. If at any point in the construction, the Public Entity identifies Extra Work as defined by the Department's current specifications that may be justified for incorporation into the contract, this proposed work shall be reviewed by the Department (State Construction Engineer or Designee), which must concur prior to the commencement of the Extra Work.



### **3. Method of Payment – Reimbursement:**

The Department's District T/LPA Coordinator shall reimburse the Public Entity upon receipt of payment requests for the purposes stated in Section 2, with supporting documentation as determined and/or approved by the Department, certifying that costs have been incurred in compliance with this Agreement. Invoices will be accepted monthly, but must be submitted at a minimum quarterly to the Department's District T/LPA Coordinator. Payment requests shall be identified by the project control number and certified that the requests accurately reflect work completed, amount due and the remaining Agreement balance. All expenses must be actual, rather than estimated, and listed on the payment request as charged. Only those expenses that are properly documented and deemed eligible will be reimbursed. Incomplete submittals will be returned to the Public Entity for corrections. Only invoices for approved/undisputed work will be processed.

The Department's District T/LPA Coordinator will not reimburse the Public Entity for costs incurred prior to obligation of federal funding and the full execution of this Agreement, after the expiration of the Agreement, or in excess of the maximum dollar amount of the Agreement. Final payment requests shall be submitted to the Department's District T/LPA Coordinator within thirty (30) calendar days of physical completion of the project and prior to the termination date identified within Section 20.

### **4. Public Entity Shall:**

- a. Act in the capacity of the lead agency for the Project.
- b. Use the Project Control Number in all correspondence and submittals to the Department.
- c. Provide notice to the Department's North Region T/LPA Coordinator of the bid tabs and the lowest responsive bidder.
- d. Pay all costs, perform all labor and supply all material for the Project, or procure construction services to perform all labor and supply all materials for the Project.
- e. Identify a Project Manager who shall be the single point of contact for all communications to and from the Department.
- f. Adopt a written resolution of support for the Project, including, as appropriate, an assumption of ownership, liability, maintenance, related amenities, and the availability of required matching funds.
- g. Provide the written authorization received from the Department's North Region T/LPA Coordinator to the District T/LPA Coordinator prior to advertising the Project for bids or performing work with the Public Entity's personnel, equipment, and /or resources.
- h. Advertise, let, and supervise the construction of Project Control No. S100282 using applicable federal, state or local requirements or procure services to accomplish these tasks.
- i. Ensure and maintain proof of compliance with 23 CFR Section 635.410 and ensure construction materials, including those associated with utility facilities and relocations, to be in accordance with "Buy America" requirements which require proof of origin and place of manufacture of iron and steel products and materials to be made in America. Additionally, ensure that this provision is included in all advertisement, construction and supply contracts at all tiers associated with the Project.
- j. Ensure construction of the Project complies with Title II of the Americans with Disabilities Act of 1990 (ADA), implemented by 28 CFR 35, Section 504 of the 1973 Rehabilitation

- Act, implemented by 49 CFR 27, NMDOT Pedestrian Access Details, and NMSA 1978 Sections 67-3-62 and 67-3-64. Additionally, ensure that this provision is included in all advertisement, construction and supply contracts at all tiers associated with the Project.
- k. If the Project will be built with Public Entity resources, prepare a detailed report of equipment and labor, including a project schedule, for submission to the Department's District T/LPA Coordinator. If Public Entity is not building the Project with Public Entity resources a detailed report is not required.
  - l. The Public Entity shall ensure that the contractor and all subcontractors register and enter all required data into B2Gnow and LCPtracker programs. Assistance can be obtained in this effort by contacting the Office of Equal Opportunity Programs ("OEOP") as identified in Section 11. The Public Entity shall verify all entries by the contractor and all subcontractors into the B2Gnow and LCPtracker programs. Failure by the Public Entity to adhere to this reporting provision may result in the Project being deemed ineligible for reimbursement.
  - m. Ensure construction activities comply with approved design, environmental commitments, right of way activities, utility coordination, and construction management and testing.
    1. Construction management, testing and inspection services may be eligible for reimbursement if the underlying procurement is consistent with federal aid funding and state procurement laws and regulations.
    2. The Public Entity's award of contracts for construction management testing or inspection services shall be independent and shall not be procured through the construction contractor.
  - n. Develop and execute the Project in accordance with the Department's current Specifications, Tribal/Local Public Agency Handbook, and the Construction Procedures Handbook for Federal Aid Local Government Lead Projects.
  - o. Comply with Appendix A, "Construction Phase Duties and Obligations," which is hereby incorporated in this Agreement, for construction projects.
  - p. Timely submit and receive all required environmental documentation and authorization for the construction phase to the Project. Copies of all approvals shall be provided to the District T/LPA Coordinator prior to construction.
  - q. Shall register with www.sam.gov and DUNS and provide such information to the Department as well as the total compensation and names of the Public Entity 2015's top five executives to comply with the Federal Funding Accountability and Transparency Act of 2006.
  - r. If the Public Entity has received a combined \$500k in Federal Funding, which under OMB Circular A-133 requires the Public Entity to have a single audit performed, the Public Entity must provide the Department a copy of the most recent completed audit report before the start of work.

**5. The Department Shall:**

- a. Assign the District T/LPA Coordinator as the representative to provide technical assistance to develop, monitor and oversee progress under this Agreement.
- b. Assign a T/LPA Construction Liaison Engineer to oversee the Project for Federal funding compliance.
- c. Timely process accepted requests for reimbursement.

**6. Both Parties Agree:**

Upon termination of this Agreement, the Public Entity shall account for any remaining property, materials or equipment that belongs to the Department, and dispose of it as directed by the Department.

**7. Project Responsibility:**

The Public Entity is solely responsible for ensuring that the Project is carried out to completion. The improvements and services required under this Agreement shall remain the full responsibility of the Public Entity unless stated otherwise in this agreement.

**8. Public Entity Sole Jurisdiction:**

Unless otherwise specified in this agreement the Department is not incorporating this Project into the State Highway System and ownership of the project shall remain with the Public Entity.

**9. Legal Compliance:**

The Public Entity shall comply with all applicable federal, state and local laws and regulations, and applicable Department policies in the performance of this Agreement. These laws include, but are not limited to: FHWA memorandums; Authorization to proceed and project monitoring at 23 CFR Part 630.106; Agreement provisions at 23 CFR Part 630.112; Project approval and oversight at 23 U.S.C. § 106 [as amended by SAFETEA-LU section 1904]; Single Audit Act Amendments of 1996 (P.L. 104-156)/OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18; Titles VI and VII of the Civil Rights Act of 1964 and related statutes; Disadvantaged Business Enterprise Program, 49 CFR Part 26; External Equal Opportunity/Contractor Compliance Program, including On-the-Job training requirements, 23 CFR Part 230; the Americans with Disabilities Act, 42 §§ 12101-12213 and 28 CFR Parts 35 and 36; the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252; 2 CFR Part 170; and 2 CFR Part 25.

Additionally, the Public Entity shall comply with all applicable federal, state and local laws and regulations governing environmental issues, workplace safety, employer-employee relations and all other laws and regulations governing operation of the workplace. The Public Entity shall ensure that the requirements of this compliance are made a part of each contract and subcontract on this Project at all tiers.

**10. Federal Grant Reporting Requirements:**

Under the Federal Funding Accountability and Transparency Act, the Department is required to report on projects or activities, which are awarded federal grants of \$25,000 or more. This information will be made available to the public on [www.USASpending.gov](http://www.USASpending.gov). For this reporting Public Entity is the "subgrantee".

The type of information the Department is required to report includes:

- a. Name of subgrantee receiving the award;
- b. Amount of award;
- c. Funding Agency;

- d. NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants;
- e. Program source;
- f. Award title descriptive of the purpose of the funding action;
- g. Location of the subgrantee, which includes the Congressional District;
- h. Place of performance of the program or activity, which includes the Congressional District;
- i. Unique identifier – DUNS -- of the subgrantee and its parent organization, if one exists; and,
- j. Total compensation and names of the top five executives of the subgrantee. This information is required, if the subgrantee in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds \$25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code.

The Department will extract as much information as possible from the Public Entity's grant application and standard reports. As specified in Section 4, Paragraph r, the subgrantee will be required to provide the total compensation and names of the subgrantee's top five executives, if applicable, and shall register with [www.sam.gov](http://www.sam.gov) and DUNS and provide that information to the Department.

More information on the Transparency Act may be located via the following links:  
<http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf>; and,  
<http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

#### **11. Disadvantaged Business Enterprise (DBE) Program:**

- a. DBE Goal Setting – In accordance with 49 CFR Part 26, The Department establishes an overall state DBE goal tri annually. In the event the Department assigns a project specific DBE goal, the Public Entity is required to meet that goal through its contractors or demonstrate good faith efforts. The Public Entity shall ensure that DBE provisions and goals are included in its invitations to bid and resulting contracts. DBE payment and utilization information shall be tracked through the B2Gnow software.
- b. Record Keeping Responsibilities – The Public Entity shall appoint a DBE liaison officer and assure that its officer completes and submits required Program forms and information to the Department's Office of Equal Opportunity Programs (OEOP). The OEOP can be contacted as follows:

New Mexico Department of Transportation  
 OEOP  
 Aspen Plaza, Suite 201  
 1596 Pacheco Street  
 Santa Fe, New Mexico 87505  
 Phone: 1-800-544-0936 or 505-827-1774  
 Fax: 505-827-1779

- c. Sanctions – Compliance with the DBE provisions is mandatory. Failure to comply will be treated as a violation of this Agreement. Furthermore, if the Public Entity fails to comply with the DBE provisions, the Department may impose sanctions as provided in 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801, et seq.).
- d. Required Contract Assurance: Each contract the Department signs with the Public Entity Contractor and each subcontract the Public Entity Contractor signs with a contractor or subcontractor must include the following assurance: "The contractor, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of USDOT-assisted contracts". Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy, as the NMDOT deems appropriate.
- e. Provision of DBE Program Information: The Public Entity contractor shall provide any DBE related information or data to the District's T/LPA Coordinator or the Department's Office of Equal Opportunity Programs, including but not limited to lists of quoters and DBE monthly participation forms, as required or upon request.

#### 12. Title VI Program Obligations:

- a. Public Entity Assurances – Each contract the Public Entity enters into with a construction contractor, design consultant, other consultant or recipient on a project assisted by the United States Department of Transportation (USDOT), and any subcontract thereto, shall include the assurances contained in **Appendix C**.
- b. The Public Entity shall sign and submit the attached Appendix C (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances) to the Department's Office of Equal Opportunity Programs as identified within the Appendix. By signing **Appendix C**, assurance is given in consideration of and for the purpose of obtaining any and all federal grants, loans, contracts, property, discounts or other federal financial assistance extended after the date hereof to the Public Entity.
- c. The Public Entity shall require recipients to sign and submit the attached Appendix C (Equal Employment Opportunity (EEO) and Title VI Program Recipient Assurances) to the Department's Office of Equal Opportunity Programs as identified within the Appendix for each contract the Public Entity enters into with a construction contractor, design consultant, other consultant or recipient on a USDOT-assisted project, and any subcontract thereto.

#### 13. Third Party Beneficiary:

No provision of this Agreement creates in the public, or any member thereof, a third-party beneficiary nor authorizes anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

The Department will not be a party to any claim between Public Entity and their designated contractor or subcontractor at any tier. The Public Entity shall solely defend any claim brought against the Department as a result of the Project.

#### 14. New Mexico Tort Claims Act:

No provision of this Agreement establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the Department or the Public Entity arising from the performance of this Agreement apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, §§ 41-4-1, et seq.

#### 15. Office of Inspector General Reviews:

The Public Entity shall provide to all bidders the reporting and oversight requirements that they are bound to from the time of bid submission. The following provisions must be included in all prime contracts, subcontracts, and other contracts for services for a federally-funded project.

- a. Inspector General Reviews. Any Inspector General of a federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using federal funds. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the head of the department or agency concerned.
- b. Access of Offices of Inspector General to Certain Records and Employees. With respect to each contract or grant awarded using federal funds, any representative of an appropriate Inspector General appointed under the Inspector General Act of 1978, 5 U.S.C. App. §§ 3 or 8G, is authorized to examine any records of the contractor or grantee, any of its subcontractors or sub-grantees, or any state or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or sub-grant; and to interview any officer or employee of the contractor, grantee, sub-grantee, or agency regarding such transactions.
  1. Allow access by the Government Accountability Office Comptroller General and his representatives to examine any records of the contractor or any of contractor's subcontractors, or any state or local agency administering such contract that directly pertain to, and involve transactions relating to, the contract or subcontract.
  2. Allow the Comptroller General and his representatives to interview any officer or employee of the contractor or any of contractor's subcontractors, or of any state or local government agency administering the contract, regarding such transactions.
  3. Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.
- c. New Mexico Department of Transportation/Office of Inspector General. As specified in New Mexico State Transportation Commission Policy Number 30 (CP-30), dated June 2006, has the authority to carry out all duties required. The duties are the same as those specified in Federal Law: Office of Inspector General, 23 U.S.C. §302 (the capability to carry out the duties required by law); 23 U.S.C. §112 (contracting for engineering and design services); the review of Federal-aid construction contracts references; 23 U.S.C. § 106 (project approval); 23 U.S.C. § 112 (letting of contracts); 23 U.S.C. § 113 (prevailing rate of wage); 23 U.S.C. § 114 (construction); 23 CFR Parts 635 and 636 (design build); 23 CFR Part 637 (construction inspection approval); the State Departments of Transportation are responsible for ensuring that all federal-aid projects are carried out in accordance with federal requirements. This responsibility was specifically clarified in 23 U.S.C. § 106, as amended by Section 1904(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59).

**16. Access to Records, Accountability of Receipts and Disbursements:**

There shall be strict accountability for all receipts and disbursements. The Public Entity shall maintain all records and documents relative to the Project for five years after completion. Project files should be kept in accordance with the Department's "Office Procedures Manual" current edition. The Public Entity shall furnish the Department, State Auditor, or appropriate Federal Auditors, upon demand, any and all records relevant to this Agreement for auditing purposes. If an audit determines that a specific expense was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense identified shall be reimbursed to the Department within thirty (30) days of written notification.

**17. Appropriation**

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the State Legislature, or the Congress of the United States, if federal funds are involved. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice given by the Department to the Public Entity. The Department is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, obligated by FHWA, encumbered, and approved for expenditure by the Department. The Department's decision as to whether its funds are sufficient for fulfillment of this Agreement shall be final.

**18. Scope of this Agreement:**

This Agreement constitutes the entire Agreement between the Parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this Agreement and not enforceable pursuant to this Agreement. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

**19. Severability:**

In the event that any portion of this Agreement is determined to be void, unconstitutional, or otherwise unenforceable, the remainder of this Agreement shall remain in full force and effect.

**20. Term:**

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement shall terminate on September 30, 2016. Neither party shall have any obligation after said date except as stated in Sections 7 and 16 above.

**21. Termination:**

This Agreement shall terminate on September 30, 2016. Neither party shall have any obligation after said date unless otherwise provided in this agreement.

- a. The Department may terminate this Agreement if the funds identified in Section Two have not been contractually committed between the Public Entity and a contractor.

- b. The Department will review inactive projects on a quarterly basis. An inactive project is a project for which no expenditures have been charged against federal funds for the past three (3) months.
- c. If the Department determines a project to be inactive, the Department may, as directed by FHWA, redirect the unexpended balance pursuant to 23 CFR Part 630.106.
- d. The Department may, at its option, terminate this Agreement if the Public Entity fails to comply with any provision of this Agreement. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to termination of the Agreement.

## **22. Principal Contacts and Notices:**

The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices shall be in writing (including notice by facsimile or E-mail) and shall be given to the principal contacts listed below.

### **North Region T/LPA Coordinator**

Yolanda M. Roybal, P.E.  
North Region Design T/LPA Coordinator  
New Mexico Department of Transportation  
P.O. Box 1149, Room 203  
Santa Fe, NM 87504  
Office: 505-827-9734  
E-mail: Yolanda.Roybal@state.nm.us

### **District T/LPA Coordinator**

David Quintana, P.E.  
TSE  
New Mexico Department of Transportation  
P.O. Box 4127  
Santa Fe, NM 87502  
Office: 1-800-388-6630

### **Public Entity**

Colleen Baker  
Project Manager  
County of Santa Fe  
P.O. Box 276  
Santa Fe, New Mexico 87504  
Office: 505-992-9868  
E-mail: cbaker@santafecounty.org

## **23. Amendment**

This Agreement shall not be altered, modified, supplemented, or amended except by an instrument in writing and executed by the Parties.



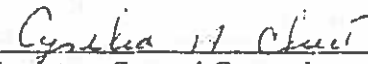
In witness whereof, the Parties have set their hands and seal the day and year set forth below.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:   
Cabinet Secretary or Designee

Date: 8/25/15

REVIEWED AND APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE  
DEPARTMENT'S OFFICE OF GENERAL COUNSEL

By:   
Assistant General Counsel

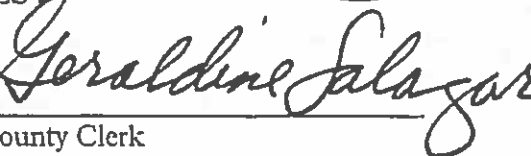
Date: 9-23-14

COUNTY OF SANTA FE

By:   
Chairman of County Commission

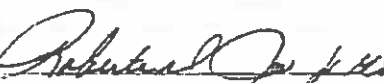
Date: 11-25-14

ATTEST


By:   
County Clerk

Date: 11-25-2014

APPROVED AS TO FORM BY THE County ATTORNEY

By:   
County Attorney

Date: 11-18-14

By:   
Katherine Miller  
Santa Fe County Manager

Date: 11.21.14

## APPENDIX A

### Construction Phase Duties and Obligations

1. The Public Entity shall be responsible for all construction engineering; including project supervision, surveying, inspection, and testing. The Public Entity shall comply with the current edition of the Department's Specifications, Construction Procedures Handbook for Federal-Aid Local Government Projects, the New Mexico Transportation Departments Office Procedures Manual, and the Department's Tribal/Local Public Agency Handbook.
2. Mix designs, price reduction guidelines, daily production, and test reports shall be pursuant to the Department's or the Public Entity's established procedures as approved by the Department, depending on the governing specifications. The American Standard Testing Method equivalents of the American Association of State Highway and Transportation Officials test methods are acceptable. Technician and Training Certification Program (TTCP) procedures are acceptable.
3. The Department's Minimum Acceptance Testing requirements, as identified in the Department's Construction Procedures Handbook for Federal Aid Local Government Projects shall be adhered to.
  - a. The Public Entity's lab personnel or consultant may perform project acceptance testing of materials in accordance with the Public Entity's procedures and requirements, if approved by the Department. All test reports shall be available for review by the Department and FHWA (if applicable).
  - b. Independent assurance testing is required and is the sole responsibility of the Public Entity and shall be done by an independent lab not responsible for acceptance testing. Periodic independent assurance testing may be conducted by the Department's District personnel to ensure material and construction compliance.
  - c. The Department maintains a listing of pre-approved independent testing assurance labs, which may be used by the Public Entity or the Public Entity's consultant for independent assurance testing, aggregate source acceptance, and concrete mix designs, relative to equipment and procedures used by the Public Entity and/or their consultant.
  - d. The Public Entity's Engineer or the Public Entity's consultant shall certify that all materials incorporated into the project meet or exceed the specification requirements. The Minimum Acceptance Requirements are available on the Department's external website.
  - e. All personnel doing sampling and testing for Acceptance/Independent Assurance on federally funded projects shall have current certifications by the Technical Training and Certificate Program.
5. The Public Entity Engineer or Public Entity consultant shall certify with each reimbursement request that the Certificates of Compliance are on file with the Public Entity Engineer's Office and Public Entity consultant's office, for products and materials incorporated into the Project and for the quantities shown on the progress payment estimate. The Department may periodically conduct an audit of the Certificates of Compliance pursuant to Section 106.4 of the Department's Standard Specifications. Department personnel may occasionally check the Public Entity's procedures for handling of all Certificates of Compliance.
6. The Public Entity Engineer or Public Entity consultant shall certify with each reimbursement request that the items shown on the estimate have been completed and accepted in accordance with the contract requirements.
7. The Department may periodically audit the Public Entity's source documents for each project. The Department's established guidelines shall be used to prepare the Source Document Books.

## APPENDIX A

Department or FHWA (if applicable) personnel may periodically review the Public Entity's procedures for documentation.

### 8. Change Orders:

- a. Changes to conform to the field conditions may be warranted; however, these changes shall be discussed with and approved by the Department prior to implementation, in accordance with the Department's Change Order Procedures. The change order shall be submitted soon thereafter to the Project Manager. All decreases/increases shall be documented on factor sheets, which may be obtained from the Department and attached to the change order. No payment shall be made for additional quantities until the Department approves the change orders.
- b. "Extra Work" for which there is no unit bid price shall be negotiated and the price shall be supported by a cost breakdown, the Department's average unit bid price, or the Public Entity's average unit price list on comparable projects. "Extra Work" shall not be performed unless approved by the Department and approved by FHWA, if participation is requested. If, "Extra Work" cannot be negotiated by the preceding manner, then the contractor may be required to do similar work on a "Force Account" basis as per the Department's specifications.
- c. Change orders for non-participating work shall be submitted to the Department for review and approval. If the work impacts the scope of work, contract time in excess of pro-rated time, and/or additional contracted funds, it shall require Department approval.

9. The Public Entity shall identify a Project Manager to the Department as the single point of contact for all communications to and from the Department and shall be in charge of the Project.

10. The Public Entity's Project Manager shall keep the Department's District T/LPA Coordinator routinely apprised of the Project's progress and important issues concerning the Project, and send copies of all pertinent correspondence on a monthly basis.

§ \*\*  
(Including gross receipts tax)

Month & Year	Monthly Pay-Out
** TOTAL -> -> ->	\$

## APPENDIX C

### Title VI Nondiscrimination Assurances For FHWA Recipients

The \_\_\_\_\_ (Title of Recipient) (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation (the Federal Highway Administration), it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations (CFR), Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes - Implementation and Review Procedures (hereinafter referred to as the Regulations) and other pertinent nondiscrimination authorities and directives, to the end that in accordance with the Act, Regulations, and other pertinent nondiscrimination authorities and directives, no person in the United States shall, on the grounds of race color, or national origin, sex (23 USC 324), age (42 USC 6101), disability/handicap (29 USC 790) and low income (Executive Order 12898) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the Department of Transportation, including the Federal Highway Administration, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this Agreement. This assurance is required by Title 49 Code of Federal Regulations, subsection 21.7(a)(1) and Title 23 Code of Federal Regulations, section 200.9(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurances with respect to its (Name of Appropriate Program):

1. That the Recipient agrees that each "program" and each "facility as defined in 49 CFR subsections 21.23(e) and (b) and 23 CFR 200.5(k) and (g) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and made in connection with all (Name of Appropriate Program) and, in adapted form in all proposals for negotiated agreements:

The (Recipient), in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office the Secretary, Part 21, Nondiscrimination in Federally - assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes, issued pursuant to such Acts, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, sex, age, disability/handicap and low income in consideration for an award.

## APPENDIX C

3. That the Recipient shall insert the clauses of Appendix C of this assurance in every contract subject to the Acts and the Regulations.
4. That the Recipient shall insert the clauses of Appendix C of this assurance, 'as a covenant running with the land, in any deed from the United States effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the assurance shall extend to rights to space on, over or under such property.
7. That the Recipient shall include the appropriate clauses set forth in Appendix C of this assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by the Recipient with other parties: (a) for the subsequent transfer of real property acquired or improved under (Name of Appropriate Program); and (b) for the construction or use of or access to space on, over or under real property acquired, or improved under (Name of Appropriate Program).
8. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property or interest therein or structures or improvements thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or (b) the period during which the Recipient retains ownership or possession of the property.
9. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient Department of Transportation under the (Name of Appropriate Program) and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the (Name of Appropriate Program).

## APPENDIX C

The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipient.

Date: \_\_\_\_\_ Project Control Number: S100282

Recipient Name: County of Santa Fe

Signature of Authorized Official: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

This Appendix should be signed and mailed to the following:

New Mexico Department of Transportation  
OEOP

Aspen Plaza, Suite 201

1596 Pacheco Street

Santa Fe, New Mexico 87505

Phone: 1-800-544-0936 or 505-827-1774

Fax: 505-827-1779

## APPENDIX C

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "UsDOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap and low income.
4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (Recipient), or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (Recipient) shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - a. withholding of payments to the contractor under the contract until the contractor complies. and/or
  - b. cancellation, termination or suspension of the contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.



## APPENDIX C

The contractor shall take such action with respect to any subcontract or procurement as the (Recipient) or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The following clauses shall be included in any and all deeds effecting or recording the transfer of real property, structures or improvements thereon, or interest therein from the United States.

### (GRANTING CLAUSE)

NOW, THEREFORE, the U.S. Department of Transportation, as authorized by law, and upon the condition that the (Name of Recipient) will accept title to the lands and maintain the project constructed thereon, in accordance with (Name of Appropriate Legislative Authority), the Regulations for the Administration of (Name of Appropriate Program) and the policies and procedures prescribed by FHWA, also in accordance with and in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation and Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes (hereinafter referred to as the Regulations) pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Name of Recipient) all the right, title and interest of the Department of Transportation in and to said lands described in Exhibit "\_\_\_" attached hereto and made a part hereof.

### (HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (Name of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and shall be binding on the (Name of Recipient), its successors and assigns.

The (Name of Recipient), in consideration or the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person shall on the grounds of race, color, or national origin, sex, age, and disability/handicap, and low income be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on over or under such lands hereby conveyed [and]\* (2) that the (Name of Recipient) shall use the lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review

\* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

## APPENDIX C

Procedures, and as said Regulations may be amended and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department shall have a right to re-enter said lands and facilities on said land, and the above described land and facilities shall thereon revert to and vest in and become the absolute property of the Department of Transportation and its assigns as such interest existed prior to this instruction. \*

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the (Name of Recipient) pursuant to the provisions of Assurance 7(a).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that in the event facilities are constructed, maintained, or otherwise operated on the said property described in this (deed, license, lease, permit, etc.) for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]\*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deed.]\*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by (Name of Recipient) pursuant to the provisions of Assurance 7(b).

The (grantee, licensee, lessee, permittee, etc., as appropriate) for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds, and leases add "as a covenant running with the

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\* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

\* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

## APPENDIX C

land") that (1) no person on the ground of race, color, or national origin sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the ground of, race, color, or national origin sex, age, disability/handicap, and low income shall be excluded from participation in, denied the benefits of, or be otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations. Department of Transportation, Subtitle A, Office of the Secretary. Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, Title 23 Code of Federal Regulations, Part 200, Title VI Program and Related Statutes – Implementation and Review Procedures, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]\*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]\*

That in the event of breach of any of the above nondiscrimination covenants, (Name of Recipient) shall have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of (Name of Recipient) and its assigns.

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\* Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to effectuate the purposes of Title VI of the Civil Rights Act of 1964.

APPENDIX D

**CERTIFICATION OF COOPERATIVE AGREEMENT – CONSTRUCTION WORK  
COMPLIANCE/COMPLETION**

I, \_\_\_\_\_, in my capacity as \_\_\_\_\_ of  
\_\_\_\_\_ do hereby certify as follows:

That the County has complied with all the terms and conditions in the Agreement for  
Control Number: S100282

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Chairman of County Commission or designee

When completed, please send Certification to:

David Quintana, P.E., TSE  
New Mexico Department of Transportation  
District 5  
P.O. Box 4127  
Santa Fe, NM 87502



