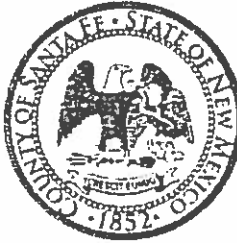


Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: October 15, 2014

To: Board of County Commissioners

From: Lupe Sanchez, County DWI Program
Bill Taylor, Procurement Manager *BT*

Via: Katherine Miller, County Manager *KM*
Rachel O'Connor Santa Fe County Community Services Department
Jeff Trujillo, ASD Director

ITEM AND ISSUE: BCC Meeting October 28, 2014

APPROVAL OF AMENDMENT #3 TO AGREEMENT #2012-0052-DWI/TRV WITH CHRISTUS ST. VINCENT, CARE CONNECTION TO INCREASE THE TOTAL COMPENSATION BY \$300,000.00; EXTEND THE TERM OF THE AGREEMENT FOR ANOTHER YEAR THROUGH NOVEMBER 8, 2015; ALLOW CHRISTUS ST. VINCENT, CARE CONNECTION THE USE OF A SANTA FE COUNTY VEHICLE TO ASSIST WITH THE DETOXIFICATION SERVICES; ALLOW SANTA FE COUNTY THE USE OF ONE (1) OFFICE SPACE; AND, AUTHORIZING THE COUNTY MANAGER TO SIGN THE PURCHASE ORDER.

Issue:

Request Approval of Amendment #3 to Professional Service Agreement #2012-0052-DWI/TRV with CHRISTUS St. Vincent Regional Medical Center, Care Connection to provide Santa Fe County residents with a professional alcohol and drug detoxification facility to serve public inebriates and others suffering from alcohol and/or drug addiction by providing safe temporary lodging, detoxification services and an opportunity to access treatment, thereby reducing the burden on law enforcement and on hospital emergency services.

The proposed amendment will also allow Santa Fe County to provide CHRISTUS St. Vincent Care Connection with a County Vehicle to be used by the Sobering Center to provide a safe means of transport for clients participating in the Sobering Center Detox program. CHRISTUS St. Vincent

Care Connection's use of said motor vehicle shall be for Sobering Center operations only and that any employee of CHRISTUS St. Vincent Care Connection operating such vehicle shall hold a valid and current New Mexico driver's license. CHRISTUS St. Vincent Care Connection shall insure such vehicle and name the County as an additional insured on the policy. CHRISTUS will also be responsible for the maintenance of such vehicle. CHRISTUS St. Vincent will allow Santa Fe County DWI Compliance program the use of one (1) office space.

Background:

Local DWI (LDWI) funds are generated from excise tax on the sale of alcohol, collected by the New Mexico Department of Taxation and Revenue, and administered by the Department of Finance and Administration (DFA). In addition to a distribution which funds the Santa Fe County DWI Program, the County is also eligible to receive \$300,000 to provide detoxification services in Santa Fe County.

These services had been provided by the Santa Fe County Sobering Center until fiscal year 2011 when CHRISTUS St. Vincent Regional Medical Center assumed oversight of the Sobering Center. The services were then provided via Professional Service Agreement #2011-0261-DWI/TRV procured through a sole source determination to continue providing detoxification services in Santa Fe County for fiscal year 2011. RFP #2012-0052 was published in order to give agencies the opportunity to submit proposals to provide the service. CHRISTUS St. Vincent Regional Medical Center was the sole respondent to the RFP. The Community Services Division /DWI Program would like to amend the Professional Service Agreement #2012-0052-DWI/TRV by \$300,000 to extend detoxification services in fiscal year 2015.

Staff Recommendation:

Staff recommends approval of this Amendment and authorizing the County Manager to sign the Purchase Order.

**AMENDMENT NO. 3
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
SANTA FE COUNTY AND
CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER**

THIS AMENDMENT is made and entered into as of this ____ day of _____, 2014, by and between **Santa Fe County**, a political subdivision of the State of New Mexico (hereinafter referred to as "the County") and **CHRISTUS St. Vincent Regional Medical Center**, (hereinafter referred to as "Contractor").

WHEREAS, on November 8, 2011 the County and the Contractor entered into Agreement No. 2012-0052-DWI/TRV in the amount of \$300,000.00 for the Contractor to provide detoxification services; and

WHEREAS, by Amendment No. 1 dated August 1, 2012, Agreement No. 2012-0052-DWI/TRV was amended to extend the term of the Agreement for one (1) year to November 8, 2013 and increase the total compensation by \$300,000.00; and

WHEREAS, by Amendment No. 2 dated August 27, 2013, Agreement No. 2012-0052-DWI/TRV was amended to extend the term of the Agreement for one (1) year to November 8, 2014 and increase the total compensation by \$300,000.00; and

WHEREAS, according to Paragraph 3, "EFFECTIVE DATE AND TERM" the County may extend the term of the Agreement in one (1) year increments for up to four (4) years; and

WHEREAS, according to Paragraph 15, "NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED" the County may change the scope of work upon executed amendment to the Agreement; and

WHEREAS, the County wishes to allow CHRISTUS St. Vincent, Care Connection the use of a Santa Fe County Vehicle to provide a safe means of transport for clients participating in the Sobering Center Detox Program; and

WHEREAS, CHRISTUS St. Vincent, Care Connection wishes to allow the County the use of one (1) office space at the CHRISTUS St. Vincent Care Connection facility; and

WHEREAS, the parties desire to enter into this Amendment No. 3 to increase the total compensation by \$300,000.00; extend the term of the Agreement for another year through November 8, 2015; change the scope of work to allow CHRISTUS St. Vincent, Care Connection the use of a Santa Fe County Vehicle and, allow the County the use of one (1) office space at the CHRISTUS St. Vincent Regional Medical Center facility.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS.

1. Article 1 (Scope of Work) of Agreement No. 2012-0052-DWI/TRV is amended by inserting 3 new subparagraphs "j", "k" and "l" to read:

- j. Pursuant to Amendment No. 3, reports required by subparagraph "f" and "g" above shall be submitted to the County by January 15, 2015, April 15, 2015 and July 15, 2015, respectively.
 - k. The Contractor shall be required to provide all necessary maintenance for the use of Santa Fe County vehicle, a 2014 Chevrolet Impala, Unit #852 with license plate number G-58668. Additionally the Contractor shall provide a current certificate of insurance naming Santa Fe County as additional insured for the added use of the County vehicle. Any employee of CHRISTUS St. Vincent, Care Connection operating said vehicle must hold a valid New Mexico driver's license.
 - l. The Contractor shall allow the County the use of one (1) office space at the CHRISTUS St. Vincent Care Connection facility, located at 2052 South Galisteo Street, Santa Fe, NM 87505.
2. Article 1 (Scope of Work) of Agreement No. 2012-0052-DWI/TRV is amended by inserting a new section at the end of the section to read:

The County shall provide the following:

- a. Allow CHRISTUS St. Vincent, Care Connection the use of Santa Fe County vehicle, a 2014 Chevrolet Impala, Unit #852 with license plate number G-58668 for all operations performed for the County by the Contractor as provided in the scope of work.
3. Article 2 (Compensation, Invoicing , and Set-Off) of Agreement No. 2012-0052-DWI/TRV is amended by inserting a new subparagraph 1) (c) to read:
- 1) (c) Pursuant to Amendment No. 3, County shall pay to the Contractor for services performed to the satisfaction of the County as follows:
 - i. \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than January 15, 2015.
 - ii. \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than April 15, 2015.
 - iii. \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than July 15, 2015.
4. Article 2 (Compensation, Invoicing , and Set-Off) of Agreement No. 2012-0052-DWI/TRV is amended by deleting subparagraph 2 and replace with the following:
- 2) The total amount payable to the Contractor under this Agreement as amended by Amendment No. 3 shall not exceed three hundred thousand dollars (\$300,000.00) per year, exclusive of gross receipts tax. In no event shall the total compensation paid to the contractor by the County under this Agreement, as amended, exceed one million two hundred thousand dollars (\$1,200,000.00) exclusive of gross receipts tax.
5. Article 3 (Effective Date and Term) is amended by adding a new subparagraph (c) to read:

(c) Pursuant to Amendment No. 3, the parties mutually agree to extend the term for one (1) year from November 8, 2014 to November 8, 2015.

6. All other provisions of Professional Services Agreement No. 2012-0052-DWI/TRV not specifically amended or modified by Amendment Nos. 1, 2 and 3, remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 3 as of the date first written above.

SANTA FE COUNTY

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

Date

ATTEST:

Geraldine Salazar
Santa Fe County Clerk


Date


Katherine Miller, Manager
Santa Fe County

10.21.14

Date

APPROVED AS TO FORM:


Gregory S. Shaffer
Santa Fe County Attorney

10-21-14

Date

FINANCE DEPARTMENT


Teresa Martinez, Finance Director

10/21/2014

Date

CONTRACTOR - CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER

By: _____
(signature and title)

Date

**AMENDMENT NO. 2
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN
SANTA FE COUNTY AND
CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER**

THIS AMENDMENT is made and entered into as of this 27 day of Aug., 2013, by and between Santa Fe County, a political subdivision of the State of New Mexico (hereinafter referred to as "the County") and Christus St. Vincent Regional Medical Center, (hereinafter referred to as "Contractor").

WHEREAS, on November 8, 2011 the County and the Contractor entered into Agreement No. 2012-0052-DWI/TRV in the amount of \$300,000.00 for the Contractor to provide detoxification services;

WHEREAS, by Amendment No. 1 dated August 1, 2012, Agreement No. 2012-0052-DWI/TRV was amended to extend the term of the Agreement for one (1) year to November 8, 2013 and increase the total compensation by \$300,000.00;

WHEREAS, according to Paragraph 3, the County may extend the term of the Agreement in one (1) year increments for up to four (4) years;

WHEREAS, the parties desire to enter into this Amendment No. 2 to increase the total compensation by \$300,000.00 and extend the term of the Agreement for another year through November 8, 2014.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Article 1 (Scope of Work) of Agreement No. 2012-0052-DWI/TRV is amended by inserting a new subparagraph "i" to read:
 - i. Pursuant to Amendment No. 2, reports required by subparagraph "f" and "g" above shall be submitted to the County by January 15, 2014, April 15, 2014 and July 15, 2014, respectively.
2. Article 2 (Compensation, Invoicing, and Set-Off) of Agreement No. 2012-0052-DWI/TRV is amended by inserting a new subparagraph 1) (b) to read:
 - 1) (b) Pursuant to Amendment No. 2, County shall pay to the Contractor for services performed to the satisfaction of the County as follows:
 - i. \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than January 15, 2014.
 - ii. \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than April 15, 2014.
 - iii. \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than July 15, 2014.
3. Article 2 (Compensation, Invoicing, and Set-Off) of Agreement No. 2012-0052-DWI/TRV is amended by deleting subparagraph 2 and replace with the following:

2) The total amount payable to the Contractor under this Agreement as amended by Amendment No. 2 shall not exceed three hundred thousand dollars (\$300,000.00) per year, exclusive of gross receipts tax. In no event shall the total compensation paid to the contractor by the County under this Agreement, as amended, exceed nine hundred thousand dollars (\$900,000.00) exclusive of gross receipts tax.

4. Article 3 (Effective Date and Term) is amended by adding a new subparagraph (b) to read:

(b) Pursuant to Amendment No. 2, the parties mutually agree to extend the term for one (1) year from November 8, 2013 to November 8, 2014.

5. All other provisions of Professional Services Agreement No. 2012-0052-DWI/TRV not specifically amended or modified by Amendment No. 1, and this Amendment No. 2, remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 as of the date first written above.

SANTA FE COUNTY

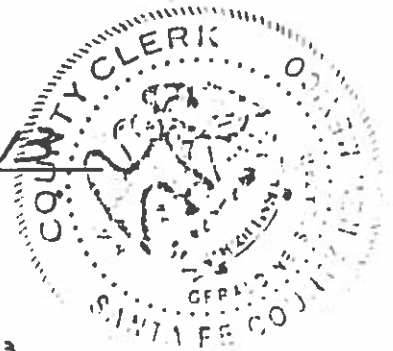
Kathleen S. Holian
Kathleen S. Holian, Chair
Santa Fe County Board of Commissioners

August 27, 2013
Date

ATTEST:

Geraldine Salazar
Geraldine, Salazar
Santa Fe County Clerk

8/27/2013
Date



APPROVED AS TO FORM:

Stephen C. Ross
Stephen C. Ross
Santa Fe County Attorney

August 1, 2013
Date

FINANCE DEPARTMENT

Teresa Martinez
Teresa Martinez, Finance Director

8/5/13
Date

CONTRACTOR – CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER

By: Dan Tassin CEO
(signature and title)

8/5/13
Date

**SANTA FE COUNTY
AMENDMENT NO. 1
TO AGREEMENT BETWEEN SANTA FE COUNTY
AND CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER**

THIS AMENDMENT is made and entered into this 13th day of August 2012, by and between Santa Fe County, hereinafter referred to as the "County", a New Mexico political subdivision, and Christus St. Vincent Regional Medical Center, Care Connection Program, hereafter referred to as the "Contractor."

WHEREAS, pursuant to an RFP, on November 8, 2011 Santa Fe County entered into Agreement No. 2012-0052-DWI/TRV with Contractor for Contractor's provision of detoxification services;

WHEREAS, Article 15, "NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED," of the Agreement allows the parties to amend the Agreement by an instrument in writing executed by the parties hereto;

WHEREAS, Article 3, "EFFECTIVE DATE AND TERM," provides that the County may extend the term of the Agreement in one (1) year increments for up to four (4) years;

WHEREAS, the initial term of the Agreement will expire November 8, 2012 and in accordance with the Agreement, Contractor has submitted its report that was due in July 2012;

WHEREAS, Santa Fe County wishes to continue the detoxification services and Contractor is willing to continue to provide services;

WHEREAS, both parties wish to extend the term of the Agreement for one (1) year and the County is willing to increase the compensation by \$300,000 as compensation for the Contractor's continuing services for another year through November 8, 2013.

NOW THEREFORE, it is mutually agreed between the parties that Agreement No. 2012-0052-DWI/TRV is amended as follows.

1. Article 1, Scope of Work, a new subparagraph "h" is inserted to read:
 - h. Pursuant to Amendment No. 1, reports required by subparagraphs "f" and "g" above shall be submitted to the County by January 15, April 15 and July 15, 2013, respectively.
2. Article 2 (Compensation), a new subparagraph 1)(a) is inserted to read:
 - 1)(a) Pursuant to Amendment No. 1, County shall pay to the Contractor for services performed to the satisfaction of County as follows:

- \$100,000 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than January 15, 2013.
- \$100,000 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than April 15, 2013.
- \$100,000 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than July 15, 2013.

3. Article 2 (Compensation), subparagraph 2) is deleted and replaced with the following:

- 2) The total amount payable to the Contractor under this Agreement as amended by Amendment No. 1, exclusive of gross receipts tax shall not exceed three hundred thousand dollars (\$300,000) per year. In no event shall the total compensation paid to Contractor by County under this Agreement, as amended, exceed six hundred thousand dollars (\$600,000) exclusive of gross receipts tax.

4. Article 3 (Effective Date and Term), a new subparagraph (a) is inserted to read:

- (a) Pursuant to Amendment No. 1, the parties mutually agree to extend the term for one (1) year from November 8, 2012 to November 8, 2013.

5. All other provisions of the Agreement not specifically amended by this Amendment No. 1 remain in full force and effect.

IN WITNESS WHEREOF, the parties have duly executed this Amendment No. 1 to the Agreement as of the date first written above.

SANTA FE COUNTY:

Liz Stefany
Liz Stefany, Chairperson
Board of County Commissioners

8/1/12
Date


ATTEST:

Valerie Espinoza
Valerie Espinoza
Santa Fe County Clerk

8/1/12
Date




Approved as to Form



Stephen C. Ross
Santa Fe County Attorney

7/17/12
Date

Finance Department Approval

 7/23/12
Teresa Martinez Date
Director

CONTRACTOR:


(Signature)

7-24-12
Date

By: J Alex Valdez
Print Name)

Its: CEO
(Print Title)

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**PROFESSIONAL SERVICES AGREEMENT
WITH CHRISTUS ST. VINCENT REGIONAL MEDICAL CENTER,
CARE CONNECTION PROGRAM
TO PROVIDE DETOXIFICATION SERVICES**

THIS AGREEMENT is made and entered into on this 8th day of November, 2011, by and between **SANTA FE COUNTY** (hereinafter referred to as the "County"), a New Mexico political subdivision, and **Christus St. Vincent Regional Medical Center, Care Connection Program** (hereinafter referred to as the "Contractor").

WHEREAS, Santa Fe County DWI Program is committed to providing Santa Fe County residents with a professional alcohol and drug detoxification facility to serve public inebriates and others suffering from alcohol and/or drug addiction by providing safe temporary lodging, detoxification services and an opportunity to access treatment, thereby reducing the burden on law enforcement and on hospital emergency services;

WHEREAS, in accordance with Section 13-1-112 NMSA 1978, the County issued Request of Proposal (RFP) No. 2012-0052-DWI/TRV for this service;

WHEREAS, the Contractor has a Custodial Drug license and licensed staff who can provide detoxification services for the Santa Fe County Community Services Department, DWI Prevention Program;

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

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

1. SCOPE OF WORK

The Contractor shall provide the following:

- a. A facility in which detoxification services are provided in a licensed and professional manner. The detoxification facility shall service and treat adult men and women and be capable of an annual minimum intake of 700 individuals or patients.
- b. Detoxification services that reduce or prevent alcohol and/or drug abuse or addiction through an active case management system consisting of detoxification treatment and referrals.
- c. Safe transportation of individuals or patients to the Contractor's detoxification facility.
- d. Treatment of alcohol and drug abuse or addiction that includes a continuum of care for individuals suffering from alcohol or drug abuse or addiction.
- e. Collect data in the form of written reports which can be used to evaluate the Contractor's facility and services. Data collection shall consist of information such as

the number of clients or patients served; the demographics of clients or patients served; the substance abuse profiles of clients or patients served; recidivism analysis, and data relating to Contractor's continuum of care and referral of clients or patients to other resources and services.

- f. Submission to the County by January 15, 2012 and April 15, 2012 of written progress reports describing the number of clients or patients served; the demographics of clients or patients served; the substance abuse profiles of clients or patients served; recidivism analysis, and data relating to Contractor's continuum of care and referral of clients or patients to other resources and services.
- g. Submission to the County by July 1, 2012 of a written final progress report describing Contractor's activities in the number of clients or patients served; the demographics of clients or patients served; the substance abuse profiles of clients or patients served; recidivism analysis, and data relating to Contractor's continuum of care and referral of clients or patients to other resources and services.

2. **COMPENSATION, INVOICING, AND SET-OFF**

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

- 1) County shall pay to the Contractor for services performed to the satisfaction of County as follows:
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than January 15, 2012;
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written progress report that is due no later than April 15, 2012;
 - \$100,000.00 upon the County's receipt and acceptance of Contractor's written final progress report that is due no later than July 1, 2012.
- 2) The total amount payable to the Contractor under this Agreement, exclusive of gross receipts tax shall not exceed three hundred thousand dollars (\$300,000.00) per year. 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 County will notify Contractor if and when County has paid Contractor the full not-to-exceed amount stated above prior to the expiration of the term of this Agreement. Absent an approved amendment to the contract amount, Contractor will not be compensated in excess of the not-to-exceed amount stated above for deliverables and services performed.

B. 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.

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

3. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one year later, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The County has the option to extend the contract at the same price, terms and conditions for a period of three (3) additional years, on a year-to-year basis, upon the approval of the Santa Fe County. The County may exercise this option by submitting a written notice to Contractor that the Agreement will be extended an additional year. The notice must be submitted to Contractor at least sixty days prior to expiration of the initial Agreement.

4. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, COMPENSATION, INVOICING, AND SET-OFF, of this Agreement, and for not other cost, amount, fee, or expense.

B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

5. TERMINATION

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

B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of

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

6. APPROPRIATIONS AND AUTHORIZATIONS

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

7. INDEPENDENT CONTRACTOR

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

8. ASSIGNMENT

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

9. SUBCONTRACTING

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

10. PERSONNEL

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

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

11. RELEASE

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

12. CONFIDENTIALITY

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

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

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

14. CONFLICT OF INTEREST

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

15. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

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

16. ENTIRE AGREEMENT; INTEGRATION

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

17. NOTICE OF PENALTIES

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

18. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

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

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

19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

A. In performing its obligations hereunder, the Contractor shall comply with all State and County laws, ordinances, or regulations, including all regulation of the State Fire Marshall.

B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be federal and state district courts of New Mexico, located in Santa Fe County.

20. RECORDS AND INSPECTIONS

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or

its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).

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

21. INDEMNIFICATION

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

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

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

22. SEVERABILITY

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

23. NOTICES

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

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

To the Contractor: St. Vincent Regional Medical Center, CARE Connection Program
Alex Valdez, CEO
455 St. Michaels Drive
Santa Fe, NM 87505

24. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

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

B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the Public Regulation Commission on Contractor's behalf.

C. Contractor is legally registered and licensed to operate as a business in New Mexico and Santa Fe County, and is properly licensed by the New Mexico Board of Pharmacy to provide the services anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

D. Contractor is in compliance with the National Commission on Corrective Health Care (NCCHC), the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Drug Enforcement Agency (DEA), and the Health Insurance Portability and Accountability Act (HIPAA) and shall maintain such compliance throughout the duration of the Agreement.

E. Contractor's staff and personnel are licensed or certified as required by their respective functions at the Facility and Contractor shall ensure that such licensure or certification is maintained throughout the term of this Agreement.

25. FACSIMILE SIGNATURES

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

26. LIMITATION OF LIABILITY

The County's liability to the Contractor for any breach of this Agreement by the County shall be limited to direct damages and shall not exceed the maximum amount of potential compensation

specified in Section 2, "COMPENSATION AND INVOICING," of this Agreement. In no event shall the County be liable to the Contractor for special or consequential damages, even if the County was advised of the possibility of such damages prior to entering into this Agreement.

27. NO THIRD-PARTY BENEFICIARIES

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

28. INSURANCE

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

B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.

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

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

E. Professional Liability [Malpractice/Errors and Omissions Insurance]. The Contractor shall procure and maintain during the life of this agreement professional liability (errors and omissions) insurance, with policy limits of not less than \$1,500,000.00 per occurrence, \$2,500,000.00 per aggregate.

29. PERMITS, FEES, AND LICENSES

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

30. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability

enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

31. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

32. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

The Contractor hereby irrevocably appoints, Corporation Services Company (Scheuer Yost and Patterson, PC), a New Mexico resident company located at, 125 Lincoln Ave, Suite 223, Santa Fe, NM 87501, as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the state of New Mexico.

32. SURVIVAL

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

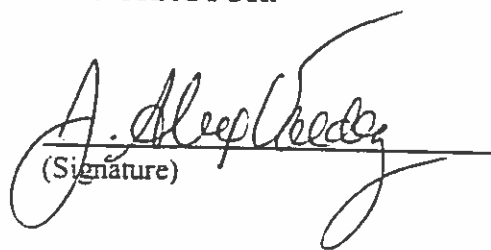
IN WITNESS WHEREOF, the parties have duly executed this Amendment to the Agreement as of the date first written above.

SANTA FE COUNTY:

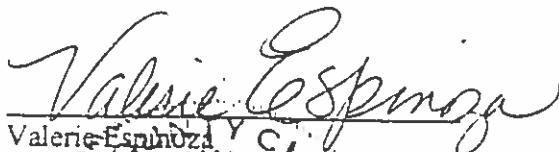
CONTRACTOR:



Virginia Vigil, Chairperson
Board of County Commissioners


(Signature)

ATTEST:



Valerie Espinoza, Clerk
County Clerk

By: _____
(Print Name)



Approved as to Form:



Stephen C. Ross
Santa Fe County Attorney

Its: _____
(Print Title)

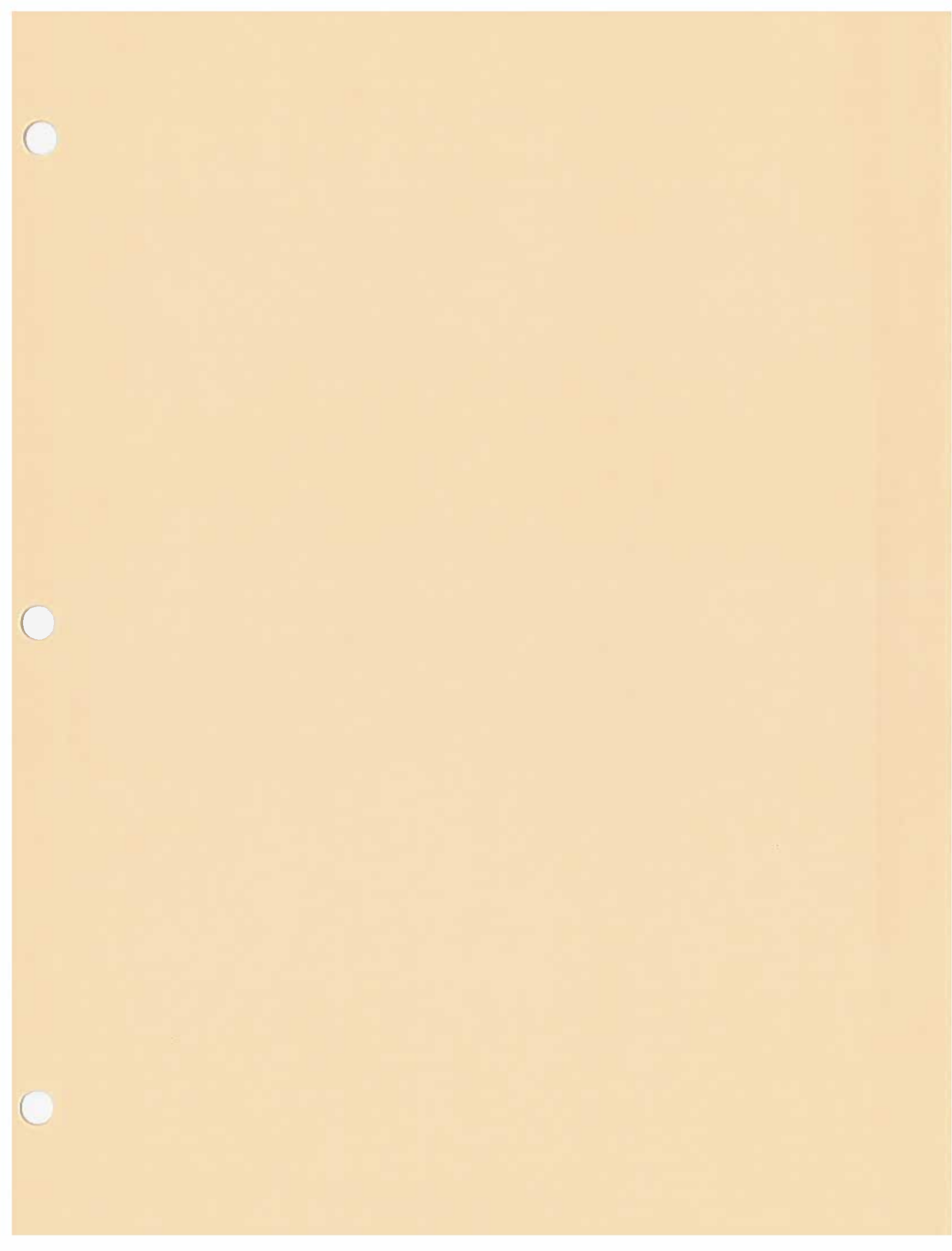
FEDERAL TAX I.D. NUMBER

Finance Department Approval:



Teresa Martinez
Santa Fe County Finance Director

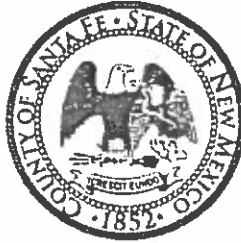
10/27/2011



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: October 15, 2014

To: Board of County Commissioners

From: Bill Taylor, Procurement Manager *BT*

Via: Katherine Miller, County Manager
Jeff Trujillo, ASD Director
Adam Leigland, Public Works Director

ITEM AND ISSUE: BCC Meeting October 28, 2014

REQUEST APPROVAL OF CHANGE ORDER #1 FOR ROAD CONSTRUCTION IMPROVEMENTS TO MUTT NELSON ROAD IN THE AMOUNT OF \$ 3,450.00, INCREASING THE TOTAL AMOUNT OF THE CONTRACT TO \$252,293.15 UTILIZING THE ON-CALL ROAD CONSTRUCTION AND MAINTENANCE AGREEMENT NO. 2013-0119-G-PW/MS- (Bill Taylor, Procurement Manager)

ISSUE

The Purchasing Division and the Public Works Department are requesting approval of change order # 1 for the EMCO of Santa Fe Contract in the amount of \$252,293.15 for the Mutt Nelson Road Improvement project utilizing the On-Call Road Construction and Maintenance Agreement No. 2013-0119-G-PW/MS.

BACKGROUND

The Purchasing Division and the Public Works Departments issued IFB# 2013-0119-PW/MS for "On-Call Road Construction and Maintenance Service" on March 28, 2013. Multi- award contracts were approved on the May 28, 2013 BCC meeting and issued to: GM Emulsion; Mountain States Constructors; RL Leeder; Meridian Contracting Services; Blue Collar Construction; Armour Pavement; EMCO of Santa Fe; Universal Constructors; Apple Mountain Construction and Allied 360° Construction.

The Public Works Division requested a quote from EMCO of Santa Fe under the "On-Call Road Construction and Maintenance Agreement" for the Mutt Nelson Road Improvement project which

will include reclaiming approximately one mile of existing road surface and resurfacing with asphalt in the amount of \$252,293.15 inclusive of GRT.

RECOMMENDATION

The Purchasing Division and the Public Works Department are recommending BCC approval of the change order and granting the County Manager signature authority on the EMCO of Santa Fe purchase order in the amount of \$252,293.15 for the Mutt Nelson Road Improvement project.



PURCHASE
ORDER

SANTA FE COUNTY
SANTA FE, NEW MEXICO

IMPORTANT
THIS PURCHASE ORDER NUMBER
MUST APPEAR ON ALL INVOICES
AND SHIPPING CONTAINERS.
INVOICES ARE TO BE IN DUPLICATE.

PAGE: 1
P.O. NO.: 152616
DATE: 09/29/14
CHANGE #: 2
DATE CHG: 10/08/14

TO: EMCO OF SANTA FE LLC
3810 OLIVER RD
SANTA FE, NM 87507

SHIP TO/
INVOICE TO:

Santa Fe County
PROJECT DELIVERY/PW
SANTA FE COUNTY
901 W. ALAMEDA, STE 20-C
SANTA FE, NM 87501

VENDOR NO.		NOTES									
5511		1	Federal Tax I.D. Number is required for payment.								
		2	If unable to fill at prices shown, or meet delivery day, please advise immediately.								
		3	All items subject to terms and conditions on reverse.								
DELIVER BY		SHIP VIA		F.O.B.		TERMS					
06/30/15						NET					
CONFIRM BY			CONFIRM TO			REQUISITIONED BY					
ORTIZ, BETH L			LINDSTAM, PAMELA								
FREIGHT		CONTRACT NO.		ACCOUNT NO.		PROJECT		REQ. NO.		REQ. DATE	
				SEE BELOW							
LINE NO.	QUANTITY	UOM	ITEM NO. AND DESCRIPTION				UNIT COST	EXTENDED COST			

* CHANGE ORDER *											

1	.00		PAUL KAVANAUGH IS REQUESTING- ON CALL CONSTRUCTION FOR MUTT NELSON ROAD ANNEXATION ROAD PROJECT				.0000	.00			
2	.00		NM GRT 6.875%				.0000	.00			
3	.00		PERFORMANCE BONDS				.0000	.00			
4	230011.00	EA	SAME DESCRIPTION AS LINE 1				1.0000	230011.00			
5	18832.15	EA	SAME DESCRIPTION AS LINE 2				1.0000	18832.15			
6	3450.00	EA	SAME DESCRIPTION AS LINE 3				1.0000	3450.00			
SUB-TOTAL							252293.15				
TOTAL							252293.15				
REMARKS: 9/29/14 PURSUANT SFC AGREEMENT #2013-0119-G-PW/MS EXPIRATION DATE: 5/28 2017 BUDGET APPROVED BY FINANCE PROJECT NUMBER: 2015-0065-PW/PL 10/8/14 ADDED LINE #3 FOR COST OF BONDS PER PAUL KAVANAUGH AND CORRECTED LINE ITEM											

NOT VALID UNLESS SIGNED BY THE COUNTY FINANCE
DIRECTOR OR THE COUNTY PURCHASING AGENT.

AUTHORIZED SIGNATURE & TITLE

VENDOR'S COPY

**SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)
AS MODIFIED BY SANTA FE COUNTY**

THIS AGREEMENT is by and between Santa Fe County ("Owner") and
EMCO of Santa Fe, LLC ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Road construction and maintenance that includes but is not limited to milling and overlay, construction/installation of drainage structures, water crossings, turning and bike lanes, w-beams and end treatments, modifications to existing driveways, road striping and permanent signage.

ARTICLE 2 – THE PROJECT

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: On-Call Road Construction and Maintenance Services for miscellaneous road construction projects located throughout Santa Fe County. As applicable, Unit Pricing shall be established for each category of construction and quantities shall be determined on a per project basis.

ARTICLE 3 – CONSTRUCTION OBSERVER

- 3.01 The Owner has the discretion to secure the services of a Construction Observer. This individual will be an agent of the Owner and will be responsible for periodic observation of the Contractor's performance of a road construction or maintenance project. The Construction Observer will represent the Owner as provided in this Agreement and the Construction Observer will assist the Owner in contract oversight for each road project.
- 3.02 Construction and maintenance of roads shall be completed in accordance with the New Mexico State Department of Transportation (NMDOT) Standard Specifications for Highway and Bridge Construction, 2007 Edition, as may be modified by the Supplemental Provisions or Specifications. The Supplement Provisions or Specifications shall govern over the Standard Specifications and are hereby made a part of the Contract Documents. If applicable, the Supplemental Provisions to the New Mexico Chapter of the American Public Works Association shall also govern.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as established by the Owner and stated in the Contract Documents, are of the essence of the Contract.
- B. This Agreement shall, upon due execution by all parties, become effective as of the date of the signatory authority and shall terminate four (4) years later.

4.02 *Days to Achieve Substantial Completion and Final Payment*

- A. The Work: (i) will be substantially completed within the number of days established by the Owner for the agreed upon schedule for each road project assigned. The number and days for substantial completion shall be indicated by the Owner in the Notice to Proceed, and (ii) shall be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 30 Working Days after the date of Substantial Completion as Certified on the Certificate of Substantial Completion issued by the Owner.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence and that Owner will suffer financial loss if the Work is not completed within the time specified on the Notice to Proceed, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by Owner if the Work is not completed on time. The parties agree that the liquidated damages provided herein represent the Owner's probable damages, not a penalty. Accordingly, instead of requiring such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner Liquidated Damages in the amount specified by the NMDOT, Standard Specifications for Highway and Bridge Construction, 2007 Edition.
- B. Contractor agrees that the liquidated damages herein provided are reasonable and represent the amount of damages reasonably anticipated to the Owner in the event the Work is not completed as provided in Paragraph 4.02.

All specific cash allowances are included in the above price in accordance with Paragraph 11.02 of the General Conditions.

- B. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item.
- C. The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Owner and /or Construction Observer.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by the Owner.
- B. The NM Public Works minimum Wage Act requires the Contractor and all tiers of subcontractors to complete and certify weekly payrolls for all their employees working on a Public Works project. The Contractor shall submit certified weekly payrolls for their employees to the Owner and ensure all subcontractors submit certified weekly payrolls to the Owner on a biweekly basis.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments, subject to the Owner's withholding of liquidated damages in accordance with Article 4.03 of the Contract and 14.02 of the General Conditions on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
- B. Upon Substantial Completion for each project, Owner shall pay an amount sufficient to increase total payments to Contractor for Work completed on each project, less liquidated damages and such amounts as Owner and less the percent of Owner's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price (for work completed for each project) subject to liquidated damages if applicable, as provided in Paragraph 14.06.

ARTICLE 7 – INTEREST

- 7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of one and one half (1.5%) percent per month for each project.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. If Owner has provided any such technical data, Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any. (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site."
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Owner written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Owner is acceptable to Contractor.

- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

A. The Contract Documents consist of the following:

1. This Agreement pages 1 to 9 inclusive and the Purchase Order issued by the Owner..
2. A Performance Bond for 100% of Project Sum for each project.
3. A Labor and Material Bond for 100% of Project Sum for each project.
4. General Conditions .
5. Santa Fe County's Supplementary Conditions.
6. Specifications as listed in the table of contents of the Project Manual if applicable.
7. Drawings as applicable.
8. Addenda (numbers _____ to _____, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
 - a. EXHIBIT A - Contractor's Bid (Bid sheets).
 - b. EXHIBIT B - Documentation submitted by Contractor prior to Notice of Award (insurance certification, bonds, etc.).
 - c. EXHIBIT C - Engineer's Drawings (as applicable).
 - d. EXHIBIT D – Notices to Contractors (includes special instructions for construction materials, Traffic Control Management, miscellaneous instructions or requirements, special permits and/or certifications or other notices, correspondences or prerequisites subject to road construction).
 - e. EXHIBIT E - New Mexico Department of Transportation (NMDOT) Standard Specifications for Highway and Bridge Construction, 2007 Edition, to include NMDOT Minimum Testing Requirements.
 - f. For each project, a NM Department of Work Force Solutions Wage Rate Determination.
10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

EJCDC C-520 Suggested Form of Agreement Between Owner and Contractor for Construction Contract (Stipulated Price)

Copyright © 2007 National Society of Professional Engineers for EJCDC. All rights reserved.

This document has been modified from its original form as an EJCDC document and the user did not highlight the modifications. You are encouraged to read the document carefully and consult Legal Counsel prior to its execution.

- a. Notice to proceed (Notice will state the Project's date for substantial completion).
- b. Work Change Directives.
- c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on May 28 2013 (which is the Effective Date of the Agreement).

OWNER:

Santa Fe County Board of County Commissioners

By: Kathleen S. Holian

Kathleen S. Holian

Title: Chair

CONTRACTOR

EMCO of Santa Fe, LLC

By: Ted Agnew

Title: V.P.

Attest:

Geraldine Salazar
Geraldine Salazar

Title: Santa Fe County Clerk

Address for giving notices:

102 Grant Ave
Santa Fe, NM 87501

Attest:

Mania B. Sanchez

Title: Proc. Spec. Senior

Address for giving notices:

3810 Oliver Road
Santa Fe, NM 87507

APPROVED AS TO FORM

Stephen C. Ross

Title: Santa Fe County Attorney

Robert D. [Signature]

Finance Department

Teresa C Martinez

Teresa C Martinez

Title: Director

License No. 8537

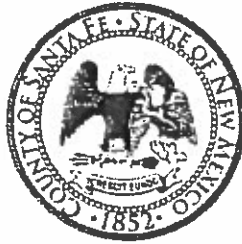
Date: 5/21/13



Danny "Daniel" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

Date: October 15, 2014

To: Board of County Commissioners

From: Bill Taylor, Procurement Manager *BT*

Via: Katherine Miller, County Manager
Pablo Sedillo III, Public Safety Director
Mark Caldwell, Deputy Warden
Tino Alva, Program Manager

ITEM AND ISSUE: BCC Meeting October 28, 2014

REQUEST APPROVAL OF BI, INC. AGREEMENT NO. 2013-0115-CORR/PL AMENDMENT NO. 2 FOR ELECTRONIC MONITORING SERVICES TO EXTEND TERM AND INCREASE COMPENSATION BY \$400,000 FOR A TOTAL CONTRACT SUM OF \$1,180,000 EXCLUSIVE OF GRT AND REQUEST COUNTY MANAGER SIGNATURE AUTHORITY TO EXECUTE THE PURCHASE ORDER (Purchasing/Bill Taylor)

ISSUE:

The Purchasing Division and the Corrections Department issued RFP# 2013-0115-CORR/PL for electronic monitoring services on September 16, 2012 and the Agreement to BI, Inc. for these services was approved by the Board on November 28, 2012. Amendment No. 1 to the Agreement extended the term of the agreement to November 28, 2014, added new equipment and increased compensation by \$360,000 for a total contract amount of \$780,000, exclusive of GRT.

Amendment No. 2 will extend the term of the Agreement to November 28, 2015 and increase compensation by \$400,000 for a total contract amount of \$1,180,000. The increase will cover the cost of providing services for another year.

BACKGROUND:

The Corrections Department offers electronic monitoring services for those County residents who are court-ordered to be monitored electronically while on probation, prior to being adjudicated or nearing the end of a minor drug, alcohol or misdemeanor sentence. Participants may also include juveniles and first-time misdemeanor offenders. The program offers an alternative to incarceration and assists in alleviating over-crowding at the jail. There is also substantial savings and decreased liability when compared to housing offenders in a jail setting.

Staff continues to work on controlling electronic monitoring costs and has instituted effective guidelines for "indigent" clients, determines the most cost-effective equipment to use, and monitors on-site inventory.

RECOMMENDATION:

The Purchasing Division and the Correction Department recommends approval of Amendment No. 2 to BI, Inc. Agreement No. 2013-0115-CORR/PL that extends the term to November 28, 2015 and increases compensation by \$400,000 for a total contract amount of \$1,180,000 exclusive of GRT and recommends that the County Manager be granted signature authority to execute the purchase order.

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

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

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

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

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

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

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

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

NOW THEREFORE, both parties agree as follows.

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

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

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

SANTA FE COUNTY:

Daniel W. Mayfield, Chair
Board of County Commissioners

Date

ATTEST


Geraldine Salazar
Santa Fe County Clerk

Date

Katherine Miller
Santa Fe County Manager

Date

Approved as to Form



Gregory S. Shaffer
Santa Fe County Attorney

10-10-14
Date

Finance Department Approval

Teresa C. Martinez
Finance Department Director

Date

CONTRACTOR:

(Signature)

Date

(Print Name)

(Print Title)

FEDERAL TAX I.D. NUMBER: _____

