

Justin S. Greene
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Camilla Bustamante
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Hank Hughes
Commissioner, District 5

Gregory S. Shaffer
County Manager

April 23, 2024

SANTA FE COUNTY
RFP No. 2023-0265-PW/BT
CONSULTANT AND ENGINEERING SERVICES REGARDING PFAS
CONTAMINATES IN DOMESTIC WELLS

ADDENDUM NO. 1

Dear Proponents,

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

Attachment A: Pre-Proposal Agenda and Sign-In Sheet

Attachment B: Project Listing Form

Attachment C: Updated Sample Agreement

Attachment D: Forms C7 Good Faith; C4 DBE & R3AE Procurement

***SUBMISSION DATE FOR PROPOSALS HAS BEEN EXTENDED TO 2:00PM,
FRIDAY MAY 24, 2024***

Question 1.

On page 24 of the RFP, V.B.7. says to complete the Project Listing form. We do not find that form included in the RFP. Please advise.

Response:

See Attachment B – Project Listing Form.

Questions 2.

In Exhibit A, page 51 of the RFP states that “this form and Good Faith Efforts Checklist must be completed and signed by the Prime Contractor *when hiring a subcontractor* and must be submitted to the project owner (SRF assistance recipient).” Is this form to be submitted with the proposal or during contracting?

Response: SEE ATTACHMENT D

Form C7- outlines the Six Good Faith Efforts (40 CFR Part 33 Subpart C) which states “The CONTRACTOR agrees to make the following good faith efforts whenever procuring subcontracts, equipment, services and supplies. The CONTRACTOR shall retain records documenting compliance with the following six good faith efforts”. Services applies to professional services. Form R3 must be completed by the County when the firm is selected. This form also outlines what is a professional service.

The C7 form is required to be submitted with the firm’s proposal. Each Offeror or Prime Contractor must make a good faith effort by soliciting subs for professional services (i.e. modeling, surveying, testing, geotechnical, hydrogeology, etc). If they do not make a good faith effort in soliciting DBE/WBE/Small businesses, etc. their proposal will not be accepted.

Question 3.

Can you confirm that the following forms must be included with the proposal?

- C1 - Certification of Non-Segregated Facilities
- C2 - Certification Regarding Debarment and Suspension
- C7 - Disadvantaged Business Enterprise Good Faith Efforts Checklist
- C8 - Build America, Buy America - Acknowledgment
- C9 - Build America, Buy America - Final Certification
- C12 - Build America, Buy America - Compliance Certification

Response:

Yes. These forms must be completed and included in your proposal.

Question 4.

In section V. Specifications, 3) Capacity and Capability, the RFP asks for “a listing of engineer(s) that would be contracted to provide expertise and other team members to include field staff.” May we include brief bios in the body of the proposal and reserve full resumes for the Appendix?

Response:

Yes. Resumes of your project team may be included as an Appendices.

Question 5.

Based on the language in Contract Provision #C4 (pg. 45 of PDF), does the prime contractor need to be a certified DBE?

102 Grant Avenue · P.O. Box 276 · Santa Fe, New Mexico 87504-0276 · 505-986-6200 · FAX:
505-995-2740 www.santafecountynm.gov

Response: No. The prime contractor must make its Good Faith Efforts Checklist (form C7) to subcontract with a DBE. (please refer to response to question 2)

Question 6.

Section IV, Paragraph C (Proposal Format) on page 20 of the RFP states that “The document shall be typewritten on standard 8-1/2 x 11 paper, with a font no smaller than 12 pt. pitch.....” Can a font size smaller than 12 pt. pitch be used for charts, tables, captions, and other graphics?

Response: Yes, but no smaller than 10 pt. pitch.

Question 7.

The first page of Exhibit A of the RFP (EPA Supplemental Conditions states that “Contract language is to be inserted verbatim into all **construction** contracts funded by the New Mexico Clean Water Revolving Fund.” Given that the scope of this solicitation does not involve construction activities, as evidenced by the two New Mexico Commodity Codes listed on the title page of the solicitation (90740 and 92536 which both correspond to engineering services), are the supplemental conditions defined in Exhibit A applicable to this procurement?

Response:

See Attachment C Updated Sample Agreement.

Question 8.

Section III, Paragraph C.4 (Subcontractors) on page 15 of the RFP states that “Use of subcontractors must be clearly explained in the proposal, and major subcontractors must be identified by name”. As part of the proposal process, are Offerors required to employ the six good faith efforts described in 40 CFR Part 33 (New Mexico CWSRF Contract Provision #C4 in Exhibit A) with respect to Disadvantaged Business Enterprises when selecting subcontractors for our proposed team?

Response:

Yes.

Question 9.

Please provide the Sampling and Analysis Plan for the previous sampling campaign for the 6 domestic wells.

Response:

No formal sampling plan was followed; 6 water wells were tested based upon ready availability/access. Here are links to that testing:

Approx. locations of wells sampled:

https://www.santafecountynm.gov/uploads/documents/lacien_wells_8x11-23.jpg

Sampled wells lab report:

https://www.santafecountynm.gov/uploads/documents/Rpt_2310374_LCLC_domestic_Well_Sampling_Final_v1.pdf

Question 10.

For the sampling plan requested in the RFP, is the County interested in characterizing domestic wells throughout the county, or can the plan focus on delineating a plume and potential sources associated with the 5 wells that exhibited presence of PFAS?

Response:

The intent of this RFP is to focus on delineating the plume and potential sources in the area represented by the 5 wells that exhibited presence of PFAS.

Question 11.

Does the county consider it a priority to sample virtually all of the 1,000 domestic wells indicated in the RFP?

Response:

Not at this time.

Question 12.

The RFP indicates a four-year initial term, are their intermediate milestones stipulated with the four-year initial term, and if so, when do they occur?

Response:

The term of the County's agreements related to competitive sealed proposals for professional services are typically written for four-years. It is expected that the selected Firm will develop a plan with specific milestones to support their work plan in response to the scope of work in the RFP.

Question 13.

What amount of funding is available to support the scope indicated in this RFP?

Response:

The County will utilize a portion of the NMED Grant received in the amount of \$459,000.

Question 14.

Will the County secure access for sampling?

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505-995-2740 www.santafecountynm.gov

Response:

The County will provide access to any County property, and initiate contact for access for sampling on private property, as may be required.

Question 15.

Is the county in possession of “any and all existing PFAS sampling data for the region” or will researching the existence of these data be part of the scope of work?

Response:

Researching the existence of these data should be part of the scope of work.

Question 16.

Should lab services be part of the cost estimate, or will the county procure those separately?

Response:

The County is not requesting a cost proposal be submitted by the Offeror. Cost will be negotiated with the selected Offeror

The County will not be procuring lab services and any and all costs associated will be negotiable with the selected Offeror.

Question 17.

Does the county prefer a specific modeling platform (a specific set of fate and transport modeling codes) and if so, what is their preference?

Response:

There is not a specific modeling platform, but the County recommends utilizing the recent groundwater model developed by NM Tech as a base for the transport model.

Please add this Addendum No. 1 to the original proposal documents and refer to proposal 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 Bill Taylor, Procurement Manager at wtaylor@santafecountynm.gov



**PRE PROPOSAL CONFERENCE
RFP No. 2024-0265-PW/BT
PROFESSIONAL CONSULTANT AND ENGINEERING SERVICES
PER-and POLYFLUOROALKYL SUBSTANCE (PFAS) CONTAMINANTS
IN DOMESTIC WELLS
APRIL 16, 2024, 10:00AM**

PLEASE SIGN-IN TO THE WEBEX CHAT ROOM

Contracting Agency: Santa Fe County

- | | | |
|---------------|-----------------------------|-------------------------|
| • Bill Taylor | Procurement Manager | Purchasing Division |
| • Paul Choman | Utilities Division Director | Public Works Department |
| • Dani Koussa | Procurement Specialist, Sr. | Purchasing Division |

Project Information

Santa Fe County Public Works Department is requesting proposals from qualified Offerors to provide consultant and engineering services related to the Per-and Polyflouroalkyl Substances (PFAS) contaminants in domestic wells.

Proposal Information

- Carefully read the Request for Proposal for requirements, terms & conditions including the sample contract.
- Sequence of Events are listed on page 11 of the RFP.
- Proposal Organization - Proposal should be organized as outlined in the RFP on page 20 and 21.
- Selection of finalist(s) – the most qualified proposal received based on the evaluation criteria outlined in the RFP (pages 23-24) will be scored by a four-member evaluation committee.
- Preferences – This is a federally funded project, and therefore preferences will not be offered as an evaluation criterion.
- Please submit all questions via email to Bill Taylor, Procurement Manager at wtaylor@santafecountynm.gov. The last day for questions will be **Thursday, April 18, 2024**. (*Any contact with any other County staff member or persons other than the Procurement Manager may be grounds for disqualification.*)
- An Addendum to the RFP will be issued on **Tuesday, April 23, 2024**. (*Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.*)
- Proposal Submittal –

Due Date: Friday, May 17, 2024

Time: 2:00 PM

Location: 102 Grant Avenue 1st Floor, Santa Fe, NM

**Electronic submissions are encouraged via Dropbox utilizing
Dropbox link:**

<https://www.dropbox.com/request/mEqVrVfPSsD7omjiWM29>



SANTA FE COUNTY

PRE-PROPOSAL CONFERENCE

RFP No. 2024-0265-PW/BT

**CONSULTANT & DESIGN ENGINEERING SERVICES PER-and POLYFLUOROALKYL
SUBSTANCE (PFAS) CONTAMINANTS IN DOMESTIC WELLS**

APRIL 16, 2024

NAME	COMPANY	TELEPHONE	E-MAIL ADDRESS
Paul Choman	SFC – Public Works		pchoman@santafecountynm.gov
Bill Taylor	SFC-Purchasing	(505) 986-6373	wtaylor@santafecountynm.gov
Dani Koussa	SFC-Purchasing		dkoussa@santafecountynm.gov
Amy Ewing, Hazen	Hazen and Sawyer		aewing@hazenandsawyer.com
Tricia Johnson	INTERA Inc.		
Joe Tracy	INTERA Inc.		jtracy@intera.com
Andrea Orr	Geosyntec Consultants, Inc.		andrea.orr@geosyntec.com
Steven Verdibello	Battelle Memorial Institute		
Jay Mullett	LATA		
Cory Tackett	LATA		
Natalie Crown	LATA		

Mohsen Karbakhsh	Water Works Engineers		mohsenk@wwengineers.com
Sam Irrinki	Weston Solutions Inc.		sam.irrinki@westonsolutions.com
Jason Jayroe	TRC		jjayroe@trccompanies.com
Evan Green	TRC		egreen@trccompanies.com
Dustin Krajewski	TRC		
Lisa Huey	Daniel B. Stephens & Associates, Inc.		lhuey@geo-logic.com
Gilbert Barth	S.S. Papadopulos and Associates		gbarth@sspa.com
Vivek Bedekar	S.S. Papadopulos and Associates		
Ashby McMullan	Weston Solutions		a.mcmullan@westonsolutions.com
Paul Santos	Talon/LPE		psantos@talonlpe.com

ATTACHMENT B

**VOLUME OF WORK
PREVIOUSLY DONE FOR SANTA FE COUNTY
PROJECT LISTING FORM**

FIRM: _____ **DATE:** _____

PROJECT DIRECTLY AWARDED TO FIRM	AWARD DATE	CONTRACT DATE	AMOUNT	% COMPLETE
1.				
2.				
3.				
4.				
5.				

**AGREEMENT BETWEEN SANTA FE COUNTY AND
ENGINEER
FOR PROFESSIONAL ENGINEERING SERVICES**

PROJECT (short title) _____ **Contract No.** _____

**PROJECT
LOCATION** _____



**SANTA FE COUNTY
ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION
2013 EDITION, Part A of Two Parts**

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

THIS AGREEMENT is made and entered into on this _____ day of _____, 20___, by and between SANTA FE COUNTY (hereinafter referred to as the “(County)”), a New Mexico political subdivision, and _____ a _____ licensed to do business in the State of New Mexico, hereinafter referred to as the “Engineer”.

Hereinafter “County”:

Hereinafter “Engineer”:

Santa Fe County
PO Box 276
Santa Fe, New Mexico 87504-0276
TELEPHONE: 505-986-6200

Telephone: _____
Fax No. _____

RECITALS

WHEREAS, the County needs “on-call” engineering services to be provided on an as-needed basis for a variety of projects throughout the County as funding becomes available and as specific needs are identified; and

WHEREAS, pursuant to NMSA 1978, Section 13-1-112 NMSA 1978, competitive sealed proposals were solicited through a formal Request for Proposal (RFP No. _____) for these professional services; and

WHEREAS, the County selected multiple qualified and experienced engineering professional to assist the County in a variety of building and construction projects pursuant to NMSA 1978, Section 13-1-154.; and

WHEREAS, based upon the evaluation criteria stated in the RFP for the purpose of determining the most qualified offerors, the County has determined the Engineer as one of the most responsive and highest rated offerors; and

WHEREAS, the County requires the services of the Engineer and the Engineer 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 in Parts A and Part B of this Agreement, the parties hereto do mutually agree as follows:

1. PURPOSE OF THIS ON-CALL CONTRACT

The purpose of this on-call Agreement for engineering services is to provide for engineering services for projects as needed by the County. During the term of this on-call Agreement, the County in its sole discretion will determine the projects to be assigned to the Engineer. When assigning a project to the Engineer, the County will issue a Project Assignment using the Attachment 1 form attached hereto. The assignment will include a description of the assigned scope of work or services, a project schedule and the Engineer's costs and compensation for completion of the assigned project. If the Engineer plans to use consultants or subcontractors for a particular project assignment the Engineer will also provide a completed Consultant List on the form indicated on Exhibit F, attached hereto. For each project assignment the County will send the Engineer a notice to proceed with the assignment using the Authorization to Proceed form (Attachment 2).

2. SCOPE OF WORK

A. The scope of work as determined by the County will be described on Attachment 1 at time of issuance of each project assignment to the Engineer.

3. COMPENSATION, INVOICING, AND SET-OFF

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

- 1) County shall pay to the Engineer in full payment for services satisfactorily performed and all costs and expenses shall be in

accordance with Exhibit A (Compensation and Schedule) and Attachment 1 (Project Assignment form) and Attachment 3 (Hourly Rate Fee Schedule).

- 2) The total amount payable to the Engineer under this Agreement, exclusive of New Mexico gross receipts tax (grt) shall not exceed _____ (\$_____). Any NM grt levied on the amounts payable under this Agreement shall be paid by the County to the Engineer.
 - 3) This amount is a maximum and not a guarantee that the work assigned to be performed by Engineer under this Agreement shall equal the amount stated herein. The parties do not intend for the Engineer to continue to provide services without compensation when the total compensation amount is reached. The County will notify the Engineer when the services provided under this Agreement reach the total compensation amount. In no event will the Engineer be paid for services provided in excess of the total compensation amount without this Agreement being amended.
- B. The Engineer shall submit a written request for payment, on the form attached hereto as Exhibit B (Engineer Pay Request form), 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 Engineer acknowledges and agrees that the County may not make any payment hereunder unless and until the County has issued a written certification accepting the contractual items or services. Within 30 days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within 30 days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.
- C. In the event the Engineer breaches this Agreement, the County may, without penalty, withhold any payments due the Engineer 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 the Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

4. ENGINEER'S BASIC SERVICES

The Engineer shall provide the following Basic Services:

A. Study and Report Phase.

- 1) The Engineer shall consult with the County to define and clarify the requirements for a project assignment.
- 2) Advise the County of any need for the County to provide additional data or services which are not a part of the Engineer's Basic Services.
- 3) Identify and analyze requirements of governmental agencies having jurisdiction to approve the portions of a project designed or specified by the Engineer.
- 4) Prepare draft Study and Report and brief and obtain the written approval of the County for the draft Study and Report, before commencing work on the Preliminary Design, Study and Report Phase.

B. Preliminary Design, Study and Report Phase

- 1) Convene a meeting with the County and other interested parties to review the Project site. Advise County if additional data, reports, or services are necessary and assist County in obtaining such data, reports, or services.
- 2) Develop and complete a Development Plan for the area in schematic form for review with County. The plans shall allow for phased construction if necessary.
- 3) Upon approval of the schematic Development Plan documents by the County, the Engineer will develop and complete preliminary Design Plans and a construction cost estimate within 30 days of authorization to proceed and review with the County. If necessary, revise Preliminary Design Phase documents in response to the County's comments.
- 4) From the approved Scope of Work the Engineer as applicable shall produce a study consisting of drawings and other documents necessary to illustrate the general planning concepts, probable Engineering system, types of materials needed and preliminary alternatives, a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the project area. The Engineer shall brief and obtain the written approval of the County for the Preliminary Design, Study and Report Phase drawings and documents.
- 5) The Engineer shall obtain written approval from the County for the proposed Preliminary Design as modified by any comment during review before commencing work on the Final Design Phase.

C. Final Design Phase

Upon approval of Preliminary Design Phase documents by the County, the Engineer shall:

- 1) Prepare Final Design Plans, documents, project specifications, and develop a construction cost estimate.
- 2) Prepare a statement that identifies the need for additional data, surveys, or tests.
- 3) Submit to the County for review of written approval a statement of Probable Construction Cost at the completion of the Final Design Phase. Should the Engineer conclude at any time that the budget and Scope of Work to accomplished are incompatible; the County shall be notified immediately in writing with proposed recommendations to reconcile the incompatibility.
- 4) Convene a meeting with the County and other interested parties to review the Final Design Plans, Project Specifications and Cost Estimate. If necessary revise such final Design Phase documents, Project Specifications, and Cost Estimate.
- 5) Upon approval of final Design Phase documents by the County, prepare and deliver Design Phase document, Project Specifications and Cost Estimate.
- 6) Deliver signed/sealed construction drawings and bid documents for submittal for permits.
- 7) Assist the County at all regulatory review meetings, present design, respond to review questions, revise plans if necessary to obtain approvals.
- 8) Provide County with three full size and three half size sets of the 100% construction plan, electronic copy of a project specifications and cost estimate. AutoCAD and PDF copies of the construction drawings shall be provided to the County upon request.

D. Bidding and Negotiating Phase

The Engineer shall:

- 1) If requested, assist the County in obtaining bids or proposals and awarding and preparing contracts for construction.
- 2) Attend pre-bid conference and assist in preparing addenda.
- 3) Assist the County to clarify and answer any questions about the bidding or proposal documents during the bidding or proposal process.
- 4) Identify any changes during the bidding or proposal process that may require addenda.
- 5) Submit all proposed addenda, including all revised drawings and sections, for approval by the County prior to distribution. The Engineer shall allow sufficient time for County review and acceptance of each addendum.
- 6) Assist the County to issue addenda as required to all bidders or offerors.

- 7) Assist the County to identify the apparent successful bidder or proposal and provide written recommendation to accept or reject the bids and/or related proposals.

E. Construction Phase

The Engineer shall:

- 1) Participate in a pre-construction conference.
- 2) Provide a minimum of one weekly or one monthly on site observation(s) during the Construction Phase to protect the County against defects and deficiencies in construction, in addition to critical inspections, reviews and evaluations required by the Scope of Work. The results of all on site observations shall be documented in field reports submitted to the County within seven days of each site visit.
- 3) Determine, certify, and make recommendations to the County for payment of amounts owing to the construction contractor subject to the County's approval, based on observations at the site and on evaluations of the construction contractor's application for payment.
- 4) Assist the County in reviewing change orders.
- 5) Conduct final site visit with the County to determine if completed work is acceptable and issue a Notice of Substantial Completion.
- 6) Finalize "As-Built" plans to include construction contractor's mark-ups.

F. Project Closeout and 11 Month Warranty Inspection Phase

- 1) General. The Engineer shall submit to the County recommendations to regarding the completion of the construction. The Engineer shall obtain from the construction contractor as applicable all releases, waivers of lien, guarantees, warranties, maintenance data, bonds, and acknowledgement receipts of any contraction contractors record drawing. The Engineer shall obtain and deliver to the County a signed receipt for all materials turned over by the Contractor.
- 2) Eleven Month Inspection and Report. The Engineer shall 11 months after Substantial Completion of a project, schedule a meeting with the County to evaluate the construction site, inspect the Engineer's Design to identify any defects in material products and workmanship. The Engineer shall provide a written report of this activity to the County with in seven calendar days. The County through the Engineer shall notify the construction contractor of any corrective action noted in the report. The Engineer shall obtain and deliver to the County a signed receipt of all corrective action completed to the satisfaction of the Engineer and County.

- 3) Attached as Exhibit C and incorporated into this Agreement is the Amendment for Engineering Basic Services form for amendments for Basic Services of this Agreement.

5. REIMBURSABLES

- A. Reimbursable expenses are those beyond Basic Services compensation and are the actual expenditures made by the Engineer or its employees, in the interest of the Project. Reimbursable expenses are in accordance with the agreed upon compensation as identified in Exhibit A (Compensation and Schedule) or Attachment 1 (Project Assignment form).
- B. Reimbursable expenses, if allowed by this Agreement, shall be compensated at direct cost not to exceed the reimbursable amounts as indicated in Exhibit A or Attachment 1 of this Agreement, unless otherwise modified by written amendment.

6. ADDITIONAL SERVICES

- A. Additional Services are services that are in addition to but not included as part of Basic Services, provided that the Engineer is not obligated to perform or furnish such services as part of the Engineer's Basic Services. These Additional Services shall be provided when authorized in advanced in writing by the County, and shall be paid for by the County as provided in paragraph 3 and Exhibit A or Attachment 1. Attached as Exhibit D and incorporated into this Agreement is the Amendment for Engineering Additional Services form.
- B. Additional Services may include but are not limited to the following.
 - 1) Subservice geotechnical investigation with associated laboratory testing to include soil borings to determine subsurface profiles, relative strengths, compressibility and other characteristics of the surface layer(s).
 - 2) Survey services for mapping, construction layout and/or to determine project and surrounding area boundaries.
 - 3) Traffic study that may include volume, movement counts, accident crash data, pedestrian traffic, and parking, sidewalk and walk/bike trail considerations.
 - 4) Drainage Plan to determine the amount of runoff/drainage impacting the Project area and make recommendations accordingly.
 - 5) Storm water management to provide viable flood control, runoff and drainage conveyance options and recommendations for surface treatment plan(s).
 - 6) Environmental Review and as applicable Cultural Resource Study, to include preparation of documentation regarding the mandatory evaluation of physical, social, and economic impacts of the proposed Project area to

ensure compliance with environmental laws and authorities and as required obtain environmental clearance(s) from governmental agencies.

- 7) Feasibility Study to evaluate and analyze the potential of a project to support recommendations for project implementation.
- 8) Market analysis to determine, develop and recommend conceptual options for future use of a project site.

7. EXHIBIT LIST

Exhibit A	Compensation and Schedule
Exhibit B	Engineer Pay Request
Exhibit C	Amendment for Basic Services
Exhibit D	Amendment for Additional Services
Exhibit E	Amendment for Consultant Services
Exhibit F	Consultant List

8. ATTACHMENTS LIST

Attachment 1	Project Assignment form – Scope of Work and Schedule
Attachment 2	Authorization to Proceed
Attachment 3	Hourly Rate Fee Schedule

SIGNATURE PAGE

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

SANTA FE COUNTY:

Katherine Miller
Santa Fe County Manager

Date

Approved as to form:

Gregory S. Shaffer
Santa Fe County Attorney

Date

Finance Department Approval

Carole H. Jaramillo
Finance Director

Date

ENGINEER:

(print name and title)

Date



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

**GENERAL TERMS AND CONDITIONS OF THE
AGREEMENT BETWEEN
SANTA FE COUNTY and ENGINEER
FOR PROFESSIONAL SERVICES**

2013 Edition, Version 1.0, Part B of the
Agreement

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

1. SCOPE OF WORK

Engineer shall provide the services set forth in Part A Section 2 (Scope of Work) of this Agreement and as provided in Exhibit A.

2. EFFECTIVE DATE AND TERM

The Agreement shall, upon due execution by all parties, become effective as of the date first written in Part A and shall terminate _____ () , unless earlier terminated pursuant to Section 4 (Termination) or Section 5 (Appropriations and Authorizations) of these General Terms and Conditions.

3. ADDITIONAL SERVICES

- A. The parties agree that all tasks set forth in Section 1 (Scope of Work) above and Section 4 (Engineer's Basic Services) of Part A of the Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 3 (Compensation, Invoicing, and Set-Off) of Part A of this Agreement, and for no other cost, amount, fee, or expense.
- B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Engineer, shall be incorporated in written amendments to this Agreement.

4. 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 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 30 days, the breaching party shall have a reasonable time to cure the breach, provided that, within 30 days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised then 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 Engineer written notice of termination. The notice shall specify the effective date of termination, which shall not be less than 15 days from the Engineer's receipt of the notice. The County shall pay the Engineer 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 or service performed after the effective date of termination.

5. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Santa Fe Board of County Commissioners 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 Engineer. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Engineer 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 Engineer in any way or forum, including a lawsuit.

6. INDEPENDENT CONTRACTOR, SUBCONTRACTING AND PERSONNEL

- A. Independent Contractor. The Engineer and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Engineer 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 Engineer has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.
- B. Subcontracting. The Engineer 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.
- C. Personnel.
 - 1) All work performed under this Agreement shall be performed by the Engineer or under its supervision.
 - 2) The Engineer 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.

7. ASSIGNMENT

The Engineer 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 County's advance written approval shall be null and void and without any legal effect.

8. RELEASE

Upon its receipt of all payments due under this Agreement, Engineer releases County, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

9. CONFIDENTIALITY

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

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

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. To the extent any material is copyrightable, the County shall own such copy right.

11. CONFLICT OF INTEREST

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

12. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

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

13. ENTIRE AGREEMENT; INTEGRATION

The 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 the 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 the Agreement.

14. EXHIBITS AND ATTACHMENTS: INCORPORATION BY REFERENCE

All exhibits, attachments, riders, and addenda referred to in the Agreement, including but not limited to the Exhibits referred to in this Agreement, as listed in Paragraph 7 (Exhibits List) in Part A of this Agreement, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

15. NOTICE OF PENALTIES

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

16. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- A. Engineer agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Engineer specifically agrees not to discriminate against any person with regard to employment with Engineer 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. Engineer acknowledges and agrees that failure to comply with this Section shall constitute a material breach of the Agreement.

17. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

- A. In performing its obligations hereunder, Engineer shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

18. RECORDS AND INSPECTIONS

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

19. INDEMNIFICATION

- A. Engineer shall defend, indemnify, and hold harmless 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 Engineer’s performance or non-performance of its obligations under this Agreement, including but not limited to Engineer’s breach of any representation or warranty made herein.
- B. County shall have the right to approve any counsel retained by Engineer to defend any demand, suit, or cause of action in which County is named, such approval not to be unreasonably withheld. Engineer agrees (i) that County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and (ii) that such suit will not be settled without County’s consent, such consent not to be unreasonably withheld. If in County’s judgment, a conflict exists between the interests of County and Engineer such demand, suit, or cause of action, County may retain its own counsel, whose fees shall be paid by Engineer.
- C. Engineer’s obligations under this section shall not be limited by the provisions of any insurance policy Engineer is required to maintain under this Agreement.

20. SEVERABILITY

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

21. NOTICES

Any notice required to be given to either party by the 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 Engineer: _____

22. ENGINEER'S REPRESENTATIONS AND WARRANTIES

- A. It is a corporation duly organized and in good standing under the laws of the state of New Mexico.
- B. This Agreement has been duly authorized by the Engineer, the person executing this Agreement has authority to do so, and once executed by the Engineer, this Agreement shall constitute a binding obligation of the Engineer.
- C. This Agreement and Engineer's obligations hereunder do not conflict with Engineer's articles of incorporation or by-laws or any corporate resolution adopted by Engineer for filed with the NM Secretary of State.

23. LIMITATION OF LIABILITY

County's liability to Engineer for any breach of this Agreement by County shall be limited to direct damages and shall not exceed the maximum amount of compensation specified in Section 3 (Compensation and Invoicing) Part A, of the Agreement. In no event shall County be liable to Engineer for special or consequential damages, even if County was advised of the possibility of such damages prior to entering into the Agreement.

24. NO THIRD-PARTY BENEFICIARIES

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

25. INSURANCE

- A. General Conditions. Engineer 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. Engineer shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,050,000 combined single limits of bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by Engineer; 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. Santa Fe County shall be named additional insured on the policy.

- C. Workers' Compensation Insurance. Engineer shall comply with the provisions of the Workers' Compensation Act.
- D. Malpractice/Errors and Omissions Insurance. Engineer 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.
- E. 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), Engineer shall increase the maximum limits of any insurance required herein.

26. PERMITS, FEES, AND LICENSES

Engineer 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.

27. FACSIMILE SIGNATURES

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

28. NEW MEXICO TORT CLAIMS ACT

No provision of the 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.

29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

30. SURVIVAL

The provisions of following paragraphs shall survive termination of the Agreement: 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.

ATTACHMENT D - FORMS C7 & R3

	<p>Disadvantaged Business Enterprise Good Faith Efforts Checklist</p>	<p>Form #C7</p>
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This form and Good Faith Efforts Checklist must be completed and signed by the Prime Contractor **when hiring a subcontractor** and must be submitted to the project owner (SRF assistance recipient).

Disadvantaged Business Enterprise (DBE) Solicitation Good-Faith Efforts

The Six Good Faith Efforts are required methods employed by all EPA financial assistance agreement recipients to ensure that Disadvantaged Business Enterprises (DBEs) have the opportunity to compete for contracts and subcontracts funded by EPA financial assistance dollars.

Prime Contractor’s DBE requirements for SRF projects include:

- Taking affirmative steps for DBE participation
- Maintaining documentation of these affirmative steps

PROJECT INFORMATION

SRF Project Number:	
SRF Project Name:	
Assistance Recipient:	
Prime Contractor:	
Address of Prime Contractor:	
Name & Title of Prime Contractor’s Authorized Representative	
Signature of Authorized Representative:	
Check if Prime Contractor is: <input type="checkbox"/> Minority-Owned <input type="checkbox"/> Women-Owned	

Note: New Mexico’s Certified Disadvantaged Business Enterprise Directory may be found online at <https://nmdotstar.com/links/>

In addition, NMED also accepts DBE certifications from the following entities:

- The Small Business Administration (SBA) (both SBA 8(a) Program certifications and SBA Small Disadvantaged Business (SDB) Program self-certifications);
- The Department of Transportation’s (DOT) state implemented DBE Certification Program (with U.S. citizenship)
- Tribal, State and local governments, as long as their standards for certification meet or exceed EPA’s; and
- Independent private organization certifications as long as their standards for certification meet or exceed EPA’s.

GOOD FAITH EFFORTS CHECKLIST

Please complete the checklist when soliciting subcontractors for the SRF Project noted above to determine if you have complied with the requirement to make good faith efforts to ensure that certified Disadvantaged Business Enterprises (DBEs) have the opportunity to compete for procurements funded by EPA financial assistance funds. Bidders/offerors must make good faith efforts prior to submission of bids/proposals.

1. Did you ensure that DBEs are made aware of subcontracting opportunities to the fullest extent practicable through outreach and recruitment activities? Yes No

2. Did you make information on forthcoming opportunities available to DBEs and arrange time frames for subcontracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process? This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date. Yes No

3. Did you consider in the subcontracting process whether firms competing for large sub-contracts could subcontract with DBEs? This will include dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process. Yes No

4. Did you encourage subcontracting with a consortium of DBEs when a subcontract is too large for one of these firms to handle individually? Yes No

5. Did you use the services of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce to identify potential subcontractors? Yes No

6. List the potential DBE subcontractors that were contacted.

Name	How Contacted (e.g. letter, phone call, fax, e-mail)	Response (e.g. did not respond, not interested, not competitive)

CONTRACT ADMINISTRATION PROVISIONS

Several contract provisions are required to prevent unfair practices that adversely affect DBEs. These include:

1. Prime Contractor must pay its Subcontractor for satisfactory performance no more than 30 days from the Prime Contractor's receipt of payment from the SRF loan recipient.
2. Prime Contractor must notify the SRF loan recipient in writing prior to termination of a DBE subcontractor for convenience.
3. Prime Contractor must employ the six Good Faith Efforts to solicit a replacement subcontractor if a DBE subcontractor fails to complete work under a subcontract for any reason.