



**ACTION SHEET  
CITY COUNCIL COMMITTEE MEETING OF 08/27/14  
ITEM FROM FINANCE COMMITTEE MEETING OF 08/18/14**

**ISSUE:**

16. Request for Approval of Exempt Procurement and Professional Services Agreement – Repair and Maintenance Services for Water System Software and Equipment for Canyon Road Water Treatment Plant; Wunderlich-Malec Systems. (Alex Puglisi)

**FINANCE COMMITTEE ACTION: APPROVED AS CONSENT ITEM**

Requested approval of exempt procurement and professional services agreement for repair and maintenance services for water system software and equipment for Canyon Road Water Treatment Plant with Wunderlich-Malec Systems in the amount of \$20,000 plus gross receipts tax. Budget is available in water fund.

**FUNDING SOURCE: 52361.520400**

**SPECIAL CONDITIONS OR AMENDMENTS**

**STAFF FOLLOW-UP:**

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	Chair		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ	Absent to voe		

3-17-14

# City of Santa Fe, New Mexico

# memo

**DATE:** August 12, 2014

**TO:** Finance Committee

**VIA:** Teresita Garcia, Assistant Director  
Finance Department 

**FROM:** Robert Rodarte, Officer  
Purchasing Division 

**ISSUE:** Repair and Maintenance Services for Water System Software/ Equipment  
Procurement Method: Exempt: Section 18. Purchasing Manual  
Vendor: Wunderlich-Malec.

## SUMMARY:

The City of Santa Fe Water Division is requesting Exempt Procurement approval to Wunderlich-Malec Systems, for continued maintenance, repairs and support of the SCADA Pack and additional water distribution related software systems..

Wunderlich-Malec is a Factory Authorized agent for Schneider Electric Systems and Rockwell Automation Systems that are used throughout the City and Buckman Direct Diversion water systems. Factory Authorized Rockwell Automation Systems require only certified technicians to perform repairs, upgrades and programming of proprietary software and components that are unique to their products.

The Purchasing Division recommends this Exempt Procurement approval based on the following information provided in the City of Santa Fe Purchasing Manual Section 18.7L Exemptions: **Purchases of computer software including ancillary services, where such is required to match other software in use or where a unique or novel application (available from only one provider) is required to be used in the public interest. This will include applicable initial and subsequent licensing fees and services to modify or maintain proprietary software, if such services are available from only a single provider.**

**Section 18.1K also supports this Exempt Procurement: States: Purchases of parts and labor or maintenance agreements to repair disabled equipment or machinery if the equipment or machinery is repaired by a franchised dealer or by a factory authorized repair shop.**

Funding for this service request is available in Business Unit 52361 (Water Source of Supply). Procurement History with Wunderlich-Malec:

Year ending 6/30/2013 \$ 9,996.76  
Year ending 6/30/2014 \$52,966.66  
Year ending 6/30/2015 \$ 4,004.61 (as of 8/12/2014)

Although, the attached Professional Service Agreement is requesting only \$20,000, it is projected that the services will possibly reach \$50,000 for year ending 6/30/2015. Amendments will be made to the contract as needed and will require City Manager approval.

## ACTION:

It is requested that this Exempt Procurement request to Wunderlich-Malec, in the approximate amount of \$50,000, be approved and submitted to the City Council for its consideration.

**ACTION SHEET  
PUBLIC UTILITES COMMITTEE MEETING OF 8/6/14**

**ISSUE NO. 13**

Request for approval of an Exempt Procurement Professional Services Agreement with Wunderlich-Malec Systems for 24 hour services for SCADA for the Canyon Road Water Treatment Plant for the amount of \$20,000.00 exclusive of NMGRT. (Alex Puglisi / Alex Gamino)

Public Utilities Committee – 8/6/14  
Finance Committee – 8/18/14  
City Council – 8/27/14

**PUBLIC UTILITES COMMITTEE ACTION: Approved to forward to 8/18/14 Finance Committee.**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR MAESTAS	X		
COUNCILOR BUSHEE	Excused		
COUNCILOR DIMAS	Excused		
COUNCILOR IVES	X		

# City of Santa Fe, New Mexico

# memo

DATE: July 24, 2014

TO: Public Utilities Committee Members  
Finance Committee Members

VIA: Nick Schiavo, Public Utilities and Water Division Director NS

FROM: Alex Puglisi, Interim Source of Supply Manager

*Alex Puglisi*

## ITEM

The Public Utilities Department's Water Division is requesting City Council approval of Professional Services Agreement with Wunderlich-Malec Systems. The City of Santa Fe Water Division is requesting this approval as an "exempt acquisition" of professional services from Wunderlich-Malec.

## BACKGROUND AND SUMMARY

The City of Santa Fe Water Division recommends Professional Service Agreement with Wunderlich-Malec Engineering in the amount of \$20,000 plus NMGRT for FY 14/15. Wunderlich-Malec has provided PLC system integration, automation network design, radio telemetry and security network design and configuration. In addition, Wunderlich-Malec involvement in the Buckman Direct Diversion project allows for Automation Process continuity within our Water System.

Wunderlich-Malec is a Factory Authorized Schneider Electric Systems Integrator, Factory Authorized Rockwell Automation Systems Integrator. Wunderlich-Malec is Factory Authorized to provide parts, system programming, labor and repairs for SCADA Pack, Modicon and Allen Bradley PLC. Currently these products line are deployed throughout the water system.

## RECOMMENDED ACTION

The Water Division is recommending PUC approval of a Professional Service Agreement with Wunderlich-Malec Engineering in the amount of \$20,000.00 plus NMGRT. Funding is sufficient and appropriated in FY 2014/15 for the expenditure of \$20,000 plus NMGRT BU/LI # 52361. 520400

The Division further requests that the PUC forward the contract, with a recommendation for approval, to the Finance Committee for their consideration and approval on August 18, 2014, and to the Governing Body for their final consideration and approval on August 27, 2014.

CITY OF SANTA FE  
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Wunderlich-Malec Systems (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City and the Contractor, whichever occurs last.

1. SCOPE OF SERVICES

The Contractor shall provide the following services for the City:

Provide 24 Hour service, seven (7) days a week, to the City for SCADA and PLC system associated to all the Source of Supply facilities. Services shall include, but not limited to process design, process modification/enhancements, maintenance software upgrades and equipment upgrades, repair or replacement of parts/system components, microwave and radio telemetry.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. The City shall pay to the Contractor in full payment for services

rendered, a sum not to exceed twenty thousand dollars (\$20,000), plus applicable gross receipts taxes. Contractor shall be paid at the following rates: Regular Rates – Monday through Friday 8:00am to 4:30pm MST, not including holidays \$125.00 per hour. Overtime Rates (anytime other than Monday through Friday 8:00am to 4:30pm MST, including holidays) 1.5 times regular hourly rate at \$187.50 per hour.

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed and accepted by the City.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and terminate on June 30, 2015, unless sooner pursuant to Article 6 below.

6. TERMINATION

A. This Agreement may be terminated by the City upon 10 days written notice to the Contractor.

(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

(2) Compensation is not based upon hourly rates and expenses, the Contractor shall be paid for services rendered and expenses incurred through the date the Contractor receives notice of such termination.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

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

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

C. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

8. 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 City.

9. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The Contractor, at its own cost and expense, shall carry and

maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

13. INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever

arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and

regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

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

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:  
Water Division Director  
Water Division  
801 W. San Mateo  
Santa Fe, NM 87504

Contractor:  
Wunderlich-Malec Systems  
Attn: Sebastian Rabo  
8804 Washington St., Suite B  
Albuquerque, NM 87113

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

CONTRACTOR:  
WUNDERLICH-MALEC SYSTEMS

\_\_\_\_\_  
JAVIER M. GONZALES, MAYOR

\_\_\_\_\_  
NAME & TITLE

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

CRS # 02-303182-004  
City of Santa Fe Business  
Registration # Pending

ATTEST:

\_\_\_\_\_  
YOLANDA Y. VIGIL  
CITY CLERK

APPROVED AS TO FORM:

 FOR  
\_\_\_\_\_  
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

\_\_\_\_\_  
FINANCE DEPARTMENT

52361.510320  
Business Unit Line Item



## City of Santa Fe Summary of Contracts, Agreements, & Amendments

**Section to be completed by department for each contract or contract amendment**

1 **FOR: ORIGINAL CONTRACT**  or **CONTRACT AMENDMENT**

2 Name of Contractor Wunderlich-Malec Engineering

3 Complete information requested  Plus GRT  
 Inclusive of GRT

Original Contract Amount: \$20,000.00

Termination Date: June 30, 2015

Approved by Council Date: pending

or by City Manager Date: \_\_\_\_\_

Contract is for: SCADA PLC support

Amendment # \_\_\_\_\_ to the Original Contract# \_\_\_\_\_

Increase/(Decrease) Amount \$ \_\_\_\_\_

Extend Termination Date to: \_\_\_\_\_

Approved by Council Date: \_\_\_\_\_

or by City Manager Date: \_\_\_\_\_

Amendment is for:  

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments)  Plus GRT  
 Inclusive of GRT

Amount \$ \_\_\_\_\_ of original Contract# \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Total of Original Contract plus all amendments: \$ 20,000



**City of Santa Fe  
Summary of Contracts, Agreements, & Amendments**

**5 Procurement Method of Original Contract: (complete one of the lines)**

RFP# \_\_\_\_\_ Date: \_\_\_\_\_

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

~~Solo Source~~  Exempt procurement Date: June 12, 2014

Other Section #18.

**6 Procurement History:** \_\_\_\_\_

example: (First year of 4 year contract)

**7 Funding Source:** water **BU/Line Item:** 52361.51032

**8 Any out-of-the ordinary or unusual issues or concerns:**  
none

(Memo may be attached to explain detail.)

**9 Staff Contact who completed this form:** Maya Martinez

Phone # \_\_\_\_\_

**10 Certificate of Insurance attached. (if original Contract)**

**Submit to City Attorney for review/signature**

Forward to Finance Director for review/signature

Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

**To be recorded by City Clerk:**

Contract # \_\_\_\_\_

Date of contract Executed (i.e., signed by all parties): \_\_\_\_\_

Note: If further information needs to be included, attach a separate memo.

**Comments:**

m