

City of Santa Fe, New Mexico

memo

DATE: January 29, 2014

TO: Finance Committee

VIA: Marcos A Tapia, Director
Finance Department

FROM: Robert Rodarte, Officer
Purchasing Division

ISSUE: Services for Public Access Channel 16
Procurement Method: Exempt: Section 18. b Purchasing Manual
Vendor: Santa Fe Community College

SUMMARY:

The City of Santa Fe Public Information Department is requesting Exempt Procurement approval to Santa Fe Community College, a Professional Service Agreement to continue access to Channel 16 cable television for the purpose of promoting public, educational and government access.

Santa Fe Community College is the only provider that offers advertising with Channel 16 cable television.

The Purchasing Division recommends this Exempt Procurement approval based on the following information provided in the City of Santa Fe Purchasing Manual Section 18.7B Exemptions: **Provide services promoting advancement of public, educational and government information. The service can only be accessed by Channel 16 cable television and provided by Santa Fe Community College.**

The amount allocated for the service is approximately \$74,000.00 plus an additional \$14,000.00 from the Comcast PED Capital Equipment Fund per fiscal year.

Funding for this service request is available in Business Unit 12138.510400.

ACTION:

It is requested that this Exempt Procurement request to Santa Fe Community College, in the amount of \$352,000.00 inclusive of applicable GRT for a four year contract be approved and submitted to the City Council for its consideration.

City of Santa Fe

memo

DATE: January 7, 2014

TO: Finance Committee

FROM: Joe Abeyta, Multimedia Manager 

VIA: Brian K. Snyder, City Manager 
Jodi McGinnis Porter, Communications/Multi-Media Administrator

RE: Approval of Professional Services Agreement with Santa Fe Community Television Channel 16.

ATTACHMENT: Professional Service Contract with Santa Fe Community Television Channel 16.

ITEM AND ISSUE

The Multimedia Office is seeking approval for the Professional Services Agreement between the Santa Fe Community Television Channel 16 and the City of Santa Fe.

SUMMARY

The PSA between the City of Santa Fe and SFCC will require the SFCC to continue administering the Public Access and Education portion of the PEG Channels on Comcast cable programming. The amount allocated to SFCC for the total four years of the contract is approximately **\$285,496.00**. This results in four annual installments of **\$71,374.00**.

The annual payment of the PEG Capital Equipment Fund has been **\$13,333.00**. This amount should increase according to the Comcast Franchise agreement in 2014 due to Comcast PEG Capital Equipment Fee increasing from 11 cents to 13 cents per subscriber. The amount below does not include this funding.

The business units for this project is **12138 and 22127**. The line item for this project is **510400**.

RECOMMENDED ACTION

Multimedia Office is seeking approval for the Professional Services Agreement between the Santa Fe Community Television Channel 16 and the City of Santa Fe in the amount of **\$285,496.00**. This amount does include the PEG Capital Equipment Fund.

City of Santa Fe

memo

DATE: January 27, 2014

TO: Robert Rodarte, Director 
Purchasing

FROM: Joe Abeyta, Manager
Multimedia Production Office

VIA: Jodi McGinnis Porter, Supervisor
Multimedia and Public Information

Marcos Tapia, Director 
Finance Department

ITEM AND ISSUE

Exemption request for contract renewal for Santa Fe Community Television Public Access Channel 16.

BACKGROUND AND SUMMARY

We are requesting approval for the contract renewal of Santa Fe Community Television Public Access Channel 16 under *Section 18.1b* of the procurement code (**Exemptions**) that states purchases of publicly provided utilities such as: gas, electricity, water, telephone, cable TV. This will be a four year contract renewal.

Business Unit/Line Item # 12138.510400.

RECOMMENDED ACTION

For your approval.


Approved

CITY OF SANTA FE
INTERGOVERNMENTAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and The Santa Fe Community College (the "SFCC"). The date of this Agreement shall be the date when it is executed by the City and SFCC, whichever occurs last.

RECITALS:

The City and the SFCC shall strive for advancement of public, educational and government purposes for each party, in particular by promoting public, educational and government access to cable television. A substantial investment is necessary on the part of both parties, and specific arrangements for equipment ownership and operation of the facility are necessary.

1. SCOPE OF AGREEMENT

A. The SFCC shall provide the following services for the City:

- 1) The SFCC shall oversee the daily operation of the public access and education portion of the PEG channels.
- 2) The SFCC shall retain a provisional employee to act as the Operation Manager of the SFCTV channel. The Operations Manager shall operate SFCTV consistent with the policies and procedures adopted pursuant to Section 1 of this Agreement and in accordance with all applicable laws.
- 3) If the SFCC chooses to have the Operations Manager teach credit

courses or non-credit courses and the teaching of the courses does not interfere with duties of the Operations Manager, as outlined in this Agreement, such instruction shall be paid solely from SFCC funds. The president of the SFCC shall appoint the Operations Manager.

4) The Operations Manager shall be employed for the fiscal year beginning July 1 and ending June 30, of the current contract year for a salary designated in the annual budget, as approved by the Governing Body of the City. In the event the Operations Manager position becomes vacant, a search committee shall be appointed by the SFCC.

5) The search committee shall consist of no less than six (6) persons, including at least three (3) persons from the City of Santa Fe, and the City staff liaison to the Committee. The search committee shall interview prospective applicants and recommend the search committee's choices to the President of the SFCC.

6) The SFCC shall provide office space, and affiliated services, access to copy machines and secretarial support to the Operations Manager. Supplies, copying costs, telecommunications charges and equipment particular to the SFCTV channel programming or operation will be paid from City funds.

B. The City shall oversee the operation of the Government portion of the PEG channels.

2. STANDARD OF PERFORMANCE; LICENSES

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

B. The SFCC 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 SFCC in full payment for services rendered, a sum not to exceed two hundred eighty-five thousand four hundred ninety-six dollars (\$285,496), inclusive of applicable gross receipts taxes. The City shall pay to the SFCC seventy four one thousand three hundred seventy four dollars (\$71,374) annually for the term of this contract.

B. In addition, SFCC shall be allocated two-thirds (2/3) of the Capital Improvement PEG Fund, for use in upgrade of equipment. The City shall calculate amounts due under this provision after its receipt of payment from the television cable company, and shall notify SFCC of the total amount available for expenditure from these funds. Payment to SFCC under this provision shall be based on reimbursement for costs of equipment purchased by SFCC, and shall be made upon receipt and approval by the City of a statement detailing the equipment purchased. Funds remaining in the fund at the end of the City's fiscal year, which shall not have been spent within the fiscal year, shall be carried forward to subsequent fiscal years and added to new revenues that may become available to the Capital Improvement PEG Fund for use by SFCC. The ownership of the equipment purchased with PEG funds is set forth in paragraph 6.D. herein.

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

D. 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 SFCC. The City's decision as to whether sufficient appropriations are available shall be accepted by the SFCC and shall be final.

B. The SFCC shall account for all receipts and disbursements of the funds received under the appropriations contained in the Agreement to the City's Finance Department by the 25th day of the month following the prior month of service.

C. Any funds which originated from the City appropriation which are not spent during the term of this Agreement will be reimbursed by the SFCC to the City no later than thirty (30) days after the close of the contracted fiscal year.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and terminate on June 30, 2018, unless sooner pursuant to Article 6 below.

6. TERMINATION

A. It is in the interest of both parties that this Agreement remain in effect throughout the entire term of the Agreement, and both parties shall establish working arrangements to permit negotiation of differences and amicable resolution of disputes. If it should become necessary to terminate the Agreement, the initiating party shall provide sixty (60) days written notice to the other party, stating the reasons for the termination and outlining the arrangements for performance of any continuing responsibilities toward the cable television production.

B. SFCC shall render a final report of the services performed up to the date of termination and a final billing for services rendered to the date of termination. SFCC shall also provide the City copies of any past programming that the City may request.

C. The City shall pay SFCC for the value of services satisfactorily performed through the date of termination, and for which compensation has not already been paid.

D. Upon termination of the Agreement, SFCC shall arrange to transfer and return to the City any equipment SFCC has purchased from Capital Improvement PEG funds, or shall reimburse the City for costs of such equipment that SFCC wishes to retain, according to the following schedule of conditions:

1) The City and SFCC shall negotiate the disposition of any assets purchased for and made part of this Agreement that had an initial individual purchase price in excess of \$5,000.

2) For assets with an individual purchase price less than \$5,000, SFCC shall return the asset or reimburse the City based on the age of the asset, as follows:

a) If the asset is less than six months old, SFCC shall return it to the City.

b) If the asset is six months to two years old, SFCC may retain the asset by reimbursing two-thirds ($2/3$) of the purchase price to the City.

c) If the asset is two to three years old, SFCC may retain the asset by reimbursing one-third ($1/3$) of the purchase price to the City.

d) If the asset is more than three years old, SFCC may retain the asset and no reimbursement shall be required to the City.

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

A. The SFCC and its agents and employees are independent SFCCs performing professional services for the City and are not employees of the City. The SFCC, 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. SFCC shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by SFCC in the performance of the services under this Agreement.

C. The SFCC 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 contract.

8. CONFIDENTIALITY

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

9. CONFLICT OF INTEREST

The SFCC 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. SFCC further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The SFCC 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 SFCC 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 SFCC, 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 SFCC agrees not to purport to bind the City to any obligation not assumed herein by the City unless the SFCC has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The SFCC, 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 SFCC shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

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

C. SFCC 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 SFCC shall furnish the City with proof of insurance of SFCC's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

13. INDEMNIFICATION

Neither the City nor SFCC shall be required to indemnify the other for its own negligence, except as otherwise provided by law. Each party shall provide its own defense and be liable for its own negligence should a claim of liability based upon either negligence or intentional act be made by any third party against the City or SFCC or both.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe or SFCC 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, SFCC, and their "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 SFCC. 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 SFCC 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

SFCC 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 SFCC 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, SFCC shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by SFCC 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:
Multimedia Production Office
Attn: Joe Abeyta
P.O. Box 909
Santa Fe, NM 87501

SFCC:
Sheila Ortego
Santa Fe Community College
6401 Richards Ave.
Santa Fe, NM 87507

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

CITY OF SANTA FE:

SFCC:
SANTA FE COMMUNITY
COLLEGE

DAVID COSS, MAYOR

Name & Title

DATE: _____

DATE: _____

NM Taxation & Revenue
CRS # 01197245009.
City of Santa Fe Business
Registration # _____

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLY BRENNAN, INTERIM CITY ATTORNEY

1/9/14

APPROVED:

MARCOS TAPIA, FINANCE DIRECTOR



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/24/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Poms & Associates Insurance Brokers, Inc. CA License #0814733 5700 Canoga Ave. #400 Woodland Hills CA 91367	CONTACT NAME: Jackee Munoz PHONE (A/C No. Ext): (800) 578-8802 E-MAIL ADDRESS: jmunoz@pomsassoc.com	FAX (A/C No.): (818) 449-9321
	INSURER(S) AFFORDING COVERAGE	
INSURED NMPSIA Member - Santa Fe Community College 410 Old Taos Highway Santa Fe NM 87501	INSURER A NMPSIA IS REINSURED BY:	
	INSURER B Selective Ins. Co. of New York	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES CERTIFICATE NUMBER: Santa Fe CC REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY			MOC NO. L0016	7/1/2013	7/1/2014	EACH OCCURRENCE \$ SEE
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ ATTACHED
B	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			RATO-007-2013	7/1/2013	7/1/2014	MED EXP (Any one person) \$ FOR
	<input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						PERSONAL & ADV INJURY \$ TORT
	AUTOMOBILE LIABILITY						GENERAL AGGREGATE \$ LIMITS
	ANY AUTO						PRODUCTS - COMP/OP AGG \$
	ALL OWNED AUTOS						\$
	HIRED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$
	SCHEDULED AUTOS						BODILY INJURY (Per person) \$
	NON-OWNED AUTOS						BODILY INJURY (Per accident) \$
	UMBRELLA LIAB						PROPERTY DAMAGE (Per accident) \$
	EXCESS LIAB						\$
	DED						EACH OCCURRENCE \$
	RETENTIONS						AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS LIABILITY						\$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NM)						WC STATU-TORY LIMITS
	If yes, describe under DESCRIPTION OF OPERATIONS below						OTH-ER
							E.L. EACH ACCIDENT \$
							E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
NMPSIA'S SELF INSURED RETENTION IS \$750,000 FOR LIABILITY. Evidence of Insurance as respects to the Insured's liability arising out of the use of Certificate Holder's facility for various school related activities.

CERTIFICATE HOLDER	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Mary Hollenbeck/MARYH <i>Mary Hollenbeck</i>



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 Santa Fe Community College Channel 16

3 Complete information requested Plus GRT
 Inclusive of GRT

Original Contract Amount: \$285,496.00

Termination Date: June 30, 2018

Approved by Council Date: _____

or by City Manager Date: _____

Contract is for: Management and Broadcasting of Public Access and Education Channel.

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 \$ 142,748.00 of original Contract# 10-0788 Termination Date: 06/30/2014

Reason: 2 year extension

Amount \$ 142,748.00 amendment # 10-0788 Termination Date: 06/30/2012

Reason: 2 year extension

Amount \$ 201,733.00 amendment # 09-0880 Termination Date: 06/30/2010

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: \$ 806932



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

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

RFP# _____ Date: _____

RFQ _____ Date: _____

Sole Source See memo _____ Date: January 6, 2014

Other _____

6 Procurement History: _____
example: (First year of 4 year contract)

7 Funding Source: Multimedia Production Office **BU/Line Item:** 12138.5104

8 Any out-of-the ordinary or unusual issues or concerns:

(Memo may be attached to explain detail.)

9 Staff Contact who completed this form: Joe Abeyta
Phone # 955-6037

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: