



**ACTION SHEET  
CITY COUNCIL MEETING OF 04/08/09  
ITEM FROM FINANCE COMMITTEE MEETING OF 03/30/09**

**ISSUE:**

6. BID OPENINGS:

- A. BID NO. 09/23/B – FRANKLIN E. MILES PARK RENOVATION (NEGOTIATED) AND AGREEMENT BETWEEN OWNER AND CONTRACTOR; LEE LANDSCAPES, INC. (BEN GURULE)

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

Requested approval of Bid No. 09/23/B for Franklin E. Miles Park renovation (negotiated) and agreement between owner and contractor with Lee Landscapes, Inc. in the amount of \$1,333,331.17 inclusive of gross receipts tax. Budget is available in parks master plan bond initiative fund.

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR WURZBURGER	absent		
COUNCILOR CALVERT	X		
COUNCILOR CHAVEZ	X		
COUNCILOR DOMINGUEZ	X		
CHAIRPERSON ORTIZ			

# City of Santa Fe, New Mexico

# memo

**DATE:** March 24, 2009

**TO:** Finance Committee

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

**VIA:** David Millican, Director   
Finance Department

**ISSUE:** Award of Bid # '09/23/B  
Franklin Miles Park Renovation

## SUMMARY:

On March 9, 2009, two bids were received for the procurement of the above referenced project as follows:

	<u>Bid Amount</u>
<b>Lee Landscapes, Inc., Albuquerque</b>	
Base Bid Amount	\$1,508,579.27
GRT	\$ 119,743.48
Total Bid Amount	\$1,628,322.75
Additive Alternate #1 (upgrade the bleachers)	\$ 15,548.24
Additive Alternate #2 (prep soil)	\$ 104,800.15
Additive Alternate #3 (metal shade structures)	\$ 35,293.52
Additive Alternate Subtotal	\$ 155,641.91
Tax	\$ 12,354.08
Additive Alternate Total	\$ 167,995.59
Base Bid Total	<b>\$1,628,322.75</b>
Additive Alternate Total	<b>\$ 167,995.99</b>
Total Bid	<b><u>\$1,796,318.74</u></b>
<b>Heads Up Landscape, Albuquerque</b>	
Base Bid Amount	\$1,700,501.25
GRT	\$ 134,977.29
Total Bid Amount	\$1,835,478.54
Additive Alternate #1 (upgrade the bleachers)	\$ 10,750.00
Additive Alternate #2 (prep soil)	\$ 118,322.50
Additive Alternate #3 (metal shade structures)	\$ 28,500.00
Additive Alternate Subtotal	\$ 157,572.50
Tax	\$ 12,507.32
Additive Alternate Total	\$ 170,079.82

Page 2  
Award of '09/23/B

Base Bid Total	\$1,832,778.75
Additive Alternate Total	<u>\$ 170,079.82</u>
Total Bid	<u>\$2,005,558.36</u>

The using department has reviewed the bid and recommends award of base bid, additive alternate 1, 2 and 3 to Lee Landscapes, Inc., Albuquerque in the amount of \$1,333,331.17 inclusive of GRT. The CIP division, project consultant and contractor negotiated to reduce the base bid amount to \$1,333,331.17.

Budget is available in account number 32720.423018.572970 (Franklin E Miles Park – WIP Construction) in the amount \$1,525,689.84. Funding for the project was approved in 2008 from the Parks (Master Plan) bond.

**ACTION:**

It is requested that this recommendation of award to Lee Landscapes, Inc., Albuquerque in the total amount of \$1,333,331.17, be reviewed, approved and submitted to the City Council for its consideration.

**Attachment(s):**

1. Memo of recommendation from the using division.
2. Bid tabulation sheet.
3. Copy of the agreement between the owner and contractor.

CITY OF SANTA FE  
PURCHASING OFFICE  
BID TABULATION SHEET

Franklin Miles Park Renovation

DATE: 03/09/09	Lee Landscapes, Inc., Albuquerque	Heads Up Landscape, Albuquerque		
BID: '09/23/B				
PREPARED BY: SHIRLEY R.				
ITEM & DESCRIPTION	BID AMOUNT	BID AMOUNT	BID AMOUNT	BID AMOUNT
Base Bid Subtotal	\$1,508,579.27	\$1,700,501.25		
Tax	\$119,743.48	\$134,977.29		
Base Bid Total	\$1,628,322.75	\$1,835,478.54		
Additive Alternate #1	\$15,548.24	\$10,750.00		
Additive Alternate #2	\$104,800.15	\$118,322.50		
Additive Alternate #3	\$35,293.52	\$28,500.00		
Additive Alternat Subtotal	\$155,641.91	\$157,572.50		
Tax	\$12,354.08	\$12,507.32		
Additive Alternate Total	\$167,995.99	\$170,079.82		
Base Bid Total	\$1,628,322.75	\$1,832,778.75		
Additive Alternate Total	\$167,995.99	\$170,079.82		
Total Bid	\$1,796,318.74	\$2,005,558.36		
Local Preference		\$1,564,461.15		
<b>SUBMITTAL REQUIREMENTS</b>				
BID BOND				
EQUAL EMPLOYMENT				
NON-SEGREGATED FACILITIES				
NON-COLLISION AFFIDAVIT				
SUBCONTRACTORS LISTING				
LOCAL PREFERENCE				
NM RESIDENT PREFERENCE NUMBER				
RECEIPT ADDENDUM #1				
RECEIPT ADDENDUM #2				
RECEIPT ADDENDUM #3				

# City of Santa Fe, New Mexico

# memo

**DATE:** March 25, 2009

**TO:** Finance Committee

**VIA:** Robert Romero, Public Works Department Director *RR*  
Chris Ortega, Engineering Division Director *CO*  
Martin Valdez, Community Facilities Section Manager *MV*  
Fabian Chavez, Parks, Trails & Water Shed Division Director *FC*

**FROM:** Ben Gurule, Project Administrator *B.G.*

**ISSUE:**

CIP Project #408C – Franklin E. Miles Park Renovation

- Request approval to Award Bid #09/23/B and Agreement between Owner and Contractor (ABOC) to Lee Landscapes Inc., in the amount of \$1,333,331.17 (negotiated) for renovations to Franklin E. Miles Park.

**SUMMARY:**

On March 9, 2009, the Purchasing Office received two (2) bids for the aforementioned project. The Bid Results are as follows:

**Heads Up Landscape Contractors**

Albuquerque	Base Bid Plus Tax	\$1,832,778.75
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**Lee Landscapes**

Albuquerque	Base Bid Plus Tax	\$1,628,322.75
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The scope of work for the Base Bid includes irrigation and landscape improvements, asphalt /concrete walkways, play equipment, shade structures, picnic tables/benches and associated work.

The Bidding Documents included the following three (3) Additive Bid Alternates:

- #1 – A bid allowance to upgrade the bleachers.
- #2 – 338,065 square feet of soil prep.
- #3 – 2 - 20 foot square metal shade structures

Memo Page 2  
Finance Committee  
March 25, 2009  
Re: Miles Park Renovations  
Award of Bid #09/23/B

Staff and the project consultant reviewed the low bid submitted by Lee Landscapes, Inc. and negotiated the bid amount to bring the project within a manageable budget including taxes and contingency. Bid items negotiated include:

- Reduced unit costs for turf grass removal and playground sand removal.
- Deletion of the boulders and parking lot improvements from the project.
- Incorporated the three bid alternates with a negotiated cost for the soil preparation.

Items omitted will be completed with city forces or reincorporated into the contract as contingency funding allows.

The Public Works Department is recommending approval to Award Bid #09/23/B and ABOC (Exhibit A) in the (negotiated) amount of \$1,333,331.17 (inclusive of applicable Gross Receipts Taxes) to Lee Landscapes Inc.

The Scope of Work is consistent with the Parks Master Plan approved by the City Council on November 14, 2007 (Please refer to Exhibit B) and is based on a public meeting held in the Fall of 2007. The Scope of Work includes the following:

The demolition, removal, disposal, recycling, salvaging and or relocation of turf grass, bleachers, backstop, concrete, play ground sand, trees, picnic tables, picnic grills, signage, benches, shelters, irrigation components, bollards/cable, fencing, etc.

Construction or installation of 3,080 linear feet of asphalt trial system, 6 shade structures, trash receptacles, bike racks, picnic tables, benches, grills, backstops, bleachers, sidewalks, playground improvements, fencing, concrete work, major irrigation upgrades and landscaping including 174 trees, and over 700 shrubs and other ground cover.

Schedule

Finance Committee	March, 30, 2009
City Council	April 8, 2009
Notice-to-Proceed	April 15, 2009
Estimated Construction Timeline (120 days)	Mid April through Mid August 2009

Memo Page 3  
Finance Committee  
March 25, 2009  
Re: Miles Park Renovations  
Award of Bid #09/23/B

**Budget**

Funds for the project were appropriated from the Parks (Master Plan) Bond Initiative approved in March 2008 - (Business Unit #32720.423018.572970).

On March 23, 2009, the Public Works, CIP & Land Use Committee recommended the approval to award the Bid and Contract as submitted.

**ACTION:**

Please recommend to the City Council:

1. Approval to Award Bid #09/23/B and Contract in the amount of \$1,333,331.17 (negotiated) to Lee Landscape Inc.

xc/Shirley Rodriguez, Purchasing  
Project File

**ACTION SHEET  
ITEM FROM THE  
PUBLIC WORKS/CIP AND LAND USE COMMITTEE MEETING  
OF  
MONDAY, MARCH 23, 2009**

**ITEM 14**

CIP PROJECT #408C – FRANKLIN E. MILES PARK RENOVATION

- REQUEST FOR APPROVAL TO AWARD BID #09/23/B AND AGREEMENT BETWEEN OWNER AND CONTRACTOR (ABOC) TO LEE LANDSCAPES, INC. IN THE AMOUNT OF \$1,333,331.17 (NEGOTIATED) FOR RENOVATIONS TO FRANKLIN E. MILES PARK (BEN GURULE)

**PUBLIC WORKS COMMITTEE ACTION: Approved**

**SPECIAL CONDITIONS OR AMENDMENTS:**

**STAFF FOLLOW UP:**

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON BUSHEE			
COUNCILOR CALVERT	X		
COUNCILOR CHAVEZ	X		
COUNCILOR ROMERO	X		
COUNCILOR TRUJILLO	X		

# City of Santa Fe, New Mexico

# memo

**DATE:** March 23, 2009

**TO:** Public Works, CIP & Land Use Committee

**VIA:** Robert Romero, Public Works Department Director *RR*  
Chris Ortega, Engineering Division Director *CO*  
Martin Valdez, Community Facilities Section Manager *MV*  
Fabian Chavez, Parks, Trails & Water Shed Division Director *FC*

**FROM:** Ben Gurule, Project Administrator *B.G.*

**ISSUE:**

CIP Project #408C – Franklin E. Miles Park Renovation

- Request approval to Award Bid #09/23/B and Agreement between Owner and Contractor (ABOC) to Lee Landscapes Inc., in the amount of \$1,333,331.17 (negotiated) for renovations to Franklin E. Miles Park.

**SUMMARY:**

On March 9, 2009, the Purchasing Office received two (2) bids for the aforementioned project. The Bid Results are as follows:

Heads Up Landscape Contractors		
Albuquerque	Base Bid Plus Tax	\$1,832,778.75
Lee Landscapes		
Albuquerque	Base Bid Plus Tax	\$1,628,322.75

The scope of work for the Base Bid includes irrigation and landscape improvements, asphalt /concrete walkways, play equipment, shade structures, picnic tables/benches and associated work.

The Bidding Documents included the following three (3) Additive Bid Alternates:

- #1 – A bid allowance to upgrade the bleachers.
- #2 – 338,065 square feet of soil prep.
- #3 – 2 - 20 foot square metal shade structures

Memo Page 2  
PW, CIP & LU Committee  
March 23, 2009  
Re: Miles Park Renovations  
Award of Bid #09/23/B

Staff and the project consultant reviewed the low bid submitted by Lee Landscapes, Inc. and negotiated the bid amount to bring the project within a manageable budget including taxes and contingency. Bid items negotiated include:

- Reduced unit costs for turf grass removal and playground sand removal.
- Deletion of the boulders and parking lot improvements from the project.
- Incorporated the three bid alternates with a negotiated cost for the soil preparation.

Items omitted will be completed with city forces or reincorporated into the contract as contingency funding allows.

The Public Works Department is recommending approval to Award Bid #09/23/B and ABOC (Exhibit A) in the (negotiated) amount of \$1,333,331.17 (inclusive of applicable Gross Receipts Taxes) to Lee Landscapes Inc.

The Scope of Work is consistent with the Parks Master Plan approved by the City Council on November 14, 2007 (Please refer to Exhibit B) and is based on a public meeting held in the Fall of 2007. The Scope of Work includes the following:

The demolition, removal, disposal, recycling, salvaging and or relocation of turf grass, bleachers, backstop, concrete, play ground sand, trees, picnic tables, picnic grills, signage, benches, shelters, irrigation components, bollards/cable, fencing, etc.

Construction or installation of 3,080 linear feet of asphalt ~~trial~~ system, 6 shade structures, trash receptacles, bike racks, picnic tables, benches, grills, backstops, bleachers, sidewalks, playground improvements, fencing, concrete work, major irrigation upgrades and landscaping including 174 trees, and over 700 shrubs and other ground cover.

The Public Works Department is also researching the pros and cons of artificial turf grass in the ball field infields.

Schedule

Finance Committee	March, 30, 2009
City Council	April 8, 2009
Notice-to-Proceed	April 15, 2009
Estimated Construction Timeline (120 days)	Mid April through Mid August 2009

Memo Page 3  
PW, CIP & LU Committee  
March 23, 2009  
Re: Miles Park Renovations  
Award of Bid #09/23/B

**Budget**

Funds for the project were appropriated from the Parks (Master Plan) Bond Initiative approved in March 2008 - (Business Unit #32720.423018.572970).

**ACTION:**

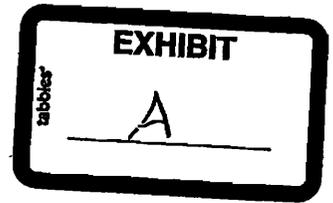
Please recommend to the Finance Committee:

1. Approval to Award Bid #09/23/B and Contract in the amount of \$1,333,331.17 (negotiated) to Lee Landscape Inc.

Attachments:	Exhibit A:	Agreement between Owner and Contractor
	Exhibit B:	Scope of Work Description
	Exhibit C:	Summary of Contracts

xc/Shirley Rodriguez, Purchasing  
Project File

CITY OF SANTA FE  
CAPITAL IMPROVEMENTS PROGRAM



AGREEMENT BETWEEN  
OWNER AND CONTRACTOR

CIP PROJECT # 408C  
Franklin E. Miles Parks Renovation

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the CITY OF SANTA FE, herein known as the Owner, and Lee Landscapes, Inc., herein known as the Contractor.

For the following:

PROJECT: Franklin E. Miles Park Renovations  
PROJECT NO.: CIP #408C  
ARCHITECT OF RECORD: Sites Southwest, LLC  
121 Tijeras NE, Suite 3100  
Albuquerque, NM 87102

DISTRIBUTION:

OWNER \_\_\_\_\_  
CONTRACTOR \_\_\_\_\_  
ARCHITECT \_\_\_\_\_  
PARKS DIVISION \_\_\_\_\_  
OTHER \_\_\_\_\_

Revised July 2009

## RECITALS

WHEREAS, the Owner, through its Governing Body, is authorized to enter into a construction Contract for the project; and

WHEREAS, the Owner has let this Contract according to the established State and Local Purchasing procedures for contracts of the type and amount let; and

WHEREAS, construction of this Project was approved by the Governing Body of the City of Santa Fe at its meeting of \_\_\_\_\_, 2009.

The OWNER and the CONTRACTOR agree:

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of: this Agreement, the Conditions of the Contract (General, Supplementary, and other Conditions), the Drawings, the Specifications, all Addenda issued prior to and all Modifications issued after execution of this Agreement. These documents form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

### ARTICLE 2 THE WORK

The Contractor shall perform all the work required by the Contract Documents for CIP Project #408C – Franklin E. Miles Park Renovation. (Bid Number '09/23/B).

The work designated as Franklin E. Miles Park Renovation, consists of, but is not limited to: construction of concrete, paving, installation of tables, benches, shade structures, irrigation system, landscaping and other work as described in the Contract Documents. Contractor shall be responsible for verifications of all conditions, measurements and dimensions for bidding.

Contractor shall be responsible for verifications of all measurements and dimensions for bidding.

Contractor shall be responsible for all permits, fees, and State inspections associated with the construction.

### ARTICLE 3 TIME OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

The work to be performed under this Contract shall be commenced not later than ten (10) consecutive calendar days after the date of written Notice to Proceed. Substantial Completion shall be achieved no later than one hundred twenty (120) calendar days after the date of written Notice to Proceed, except as hereafter extended by valid written Change Order by the Owner.

### ARTICLE 4 CONTRACT SUM

The Owner shall pay the Contractor in current funds for the performance of the work, subject to additions and deductions by Change Order as provided in the Contract Documents, the Contract Sum of one million, three hundred thirty three thousand three hundred thirty one dollars and

seventeen cents (\$1,333,331.17).

The Contract Sum is determined as follows:

Negotiated Base Bid	\$1,147,251.85
Gross Receipts Tax (7.9375%)	<u>91,063.12</u>
<b>Base Bid plus NMGR</b>	<b>\$1,238,314.97</b>
Bid Alternate #1	\$ 15,548.24
Bid Alternate #2 (negotiated)	37,187.15
Bid Alternate 3	35,293.52
Gross Receipts Tax (7.9375%)	6,987.29
<b>Bid Alternates plus NMGR</b>	<b><u>\$ 95,016.20</u></b>
<b>Contract Sum</b>	<b>\$1,333,331.17</b>

ARTICLE 5  
PROGRESS PAYMENTS

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

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the Owner; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the Owner shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

ARTICLE 6  
LIQUIDATED DAMAGES

Should the Contractor neglect, refuse, or otherwise fail to complete the work within the Contract Time or any extension in the Contract thereof, the Contractor agrees to pay to the Owner the amount of two hundred fifty dollars (\$250.00) per consecutive calendar days of delay until the work is completed and accepted or until voided pursuant to the provisions of the General Conditions of the Contract, not as a penalty, but as liquidated damages for such breach of the Contract.

ARTICLE 7  
FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract sum, shall be paid by the Owner to the Contractor within twenty-one (21) calendar days after all deficiencies to the

Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the Owner. In addition, the Contractor shall provide to the Owner a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

## ARTICLE 8 SCHEDULE

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit five (5) copies of a progress schedule covering project operations for the (90) day Contract period. This progress schedule shall be of the type generally referred to as a Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the contractor to implement the CPM shall be borne by the Contractor, and are part of their Contract (See Article 4.10, Progress Schedules of Section 00700, General Conditions of the Contract).

## ARTICLE 9 GENERAL AND SPECIAL PROVISIONS

9.1 This Agreement shall be governed exclusively by the provisions hereof and by the laws of the State of New Mexico as the same from time to time exist.

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

9.3 The Contractor shall defend, indemnify, and hold harmless the Owner against any and all injury, loss, or damage, including, without limitation, costs of defense, court costs and attorney's fees, arising out of the acts, errors, or omissions of the Contractor.

9.4 An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts which the Owner could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to be in compliance with the law.

9.5 This Agreement shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Agreement.

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

9.7 The Contractor shall not subcontract any portion of the services to be performed under

this Agreement without prior written approval of the Owner.

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

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

9.10 The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

9.11 The Contractor hereby warrants that the Contractor is in compliance with the Americans with Disabilities Act, 29 CFR 1630.

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

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

9.14 Notices. Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) 5 days after the same are deposited in the United States mail, postage prepaid, registered or certified mail return receipt requested, addressed to the applicable party at the address indicated below for such party or at such other address as may be designated by either party in a written note to the other party.

OWNER	City of Santa Fe, Public Works Department Engineering Division P.O. Box 909 Santa Fe, New Mexico 87504-0909
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CONTRACTOR	Lee Landscapes, Inc. 5604 Wilshire Avenue NE Albuquerque, NM 87113
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New Mexico License #83295

9.15 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

9.16 Captions and Section Headings. The captions and section headings contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope and conditions of this Agreement.

9.17 This document shall be executed in no less than five (5) counterparts, each of which shall be deemed an original.

9.18 Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Agreement shall be attached to this Agreement at the time of execution, and are hereby incorporated by reference as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

9.19 Separability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

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

9.21 Entire Agreement. This Agreement represents the entire Contract between the parties and except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this Contract, and all such conditions, understandings, and agreements have been merged into this written Agreement. No prior conditions, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

9.22 Interchangeable Terms. For purposes of all provisions within this Agreement and all attachments hereto, the terms "Agreement" and "Contract" shall have the same meaning and shall be interchangeable.

9.23 Words and Phrases. Words, phrases, and abbreviations which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

9.24 Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

9.25 Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including Sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3, NMSA 1978) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (Sections 13-1-28 through 13-1-199, NMSA 1978) imposes civil and criminal penalties for its violation.

9.26 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 Owner 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.

9.27 Pursuant to Section 13-4-11. NMSA 1978, Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

ARTICLE 10  
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 any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

[ THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK ]

This Agreement is entered into as of the day and year first written above.

OWNER:  
CITY OF SANTA FE

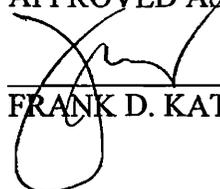
\_\_\_\_\_  
DAVID COSS, MAYOR

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
FRANK D. KATZ, CITY ATTORNEY

APPROVED:

\_\_\_\_\_  
DAVID N. MILLICAN, DIRECTOR  
FINANCE DEPARTMENT

CONTRACTOR:  
LEE LANDSCAPES, INC.

By: \_\_\_\_\_  
GERALD L. HANKINSON, PRESIDENT

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

NM Taxation & Revenue CRS No. 02-425126-00-7  
City of Santa Fe Business Reg. No. 09-00040012

**Franklin E. Miles Park**

Acreage 28.6

tabbies

B

**Capital  
Improvement  
Costs**

**Parks 5 Year Plan**

Landscape Architectural Services	51,149.00
Survey	17,944.92
Concession Stand	49,087.69
Mural	5,988.87
Valley Fence	65,750.00
BallFields - Infield Dirt	22,105.00
800 lbs. of seed	1,160.00
Retrofit 100 spinkler heads	10,000.00
Sub-total	223,185.48
Design & Inflation Contingencies @ 25%	55,796.37
<b>Total:</b>	<b>278,981.85</b>

**Completed -  
Inhouse Worksopce**

**2007 Park Assessment Needs**

**Parks Advisory Committee Recommendation - Adequate**

Perimeter Walking Path, Upgrade Picnic Area, Shade Structures, Putting Greens, Remote Control Race Car Track, Gates, Upgrade Passive Turf Area, Irrigation System Upgrades	1,721,019.00
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**Parks  
5 Year Renovation Plan**

Sub-total	1,721,019.00
Design & Inflation Contingencies @ 25%	430,254.75
<b>Total:</b>	<b>2,151,273.75</b>

**Minimum**

**Parks  
5 Year Renovation Plan**

Sub-total	1,721,019.00
Design & Inflation Contingencies @ 25%	430,254.75
<b>Total:</b>	<b>2,151,273.75</b>



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 Lee Landscapes, Inc.

3 Complete information requested [ ] Plus GRT
[ ] Inclusive of GRT

Original Contract Amount: \$1,333,331.17

Termination Date: August 31, 2009

[ ] Approved by Council Date: April 8, 2009

[ ] or by City Manager Date:

Contract is for: Franklin E. Miles Park Improvements

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 \$ 1,333,331.17 of original Contract# Termination Date: 08/31/2009

Reason: Award of Bid and Contract

Amount \$ amendment # Termination Date:

Reason:

Amount \$ amendment # Termination Date:

Reason:

Amount \$ amendment # Termination Date:

Reason:

Total of Original Contract plus all amendments: \$ 1,333,331.17



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

Other Request for Bids #09/23/B

**6 Procurement History:** One time construction contract  
example: (First year of 4 year contract)

**7 Funding Source:** \_\_\_\_\_ 32720.42018 **BU/Line Item:** \_\_\_\_\_ 572970

**8 Any out-of-the ordinary or unusual issues or concerns:**  
No  
(Memo may be attached to explain detail.)

**9 Staff Contact who completed this form:** Frank Archuleta

Phone # 955-6766

**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:**