

**CITY OF SANTA FE
PUBLIC UTILITIES DEPARTMENT**

“REQUEST FOR BID”

SECURITY SERVICES

for

City of Santa Fe Water Facilities & BDDB Facilities

BID # ‘15/06/B

BID DUE:

**October 13, 2014, 2:00 P.M.
PURCHASING OFFICE
CITY OF SANTA FE
2651 SIRINGO ROAD - BUILDING “H”
SANTA FE, NEW MEXICO 87505**

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Sample Contract

**ADVERTISEMENT FOR BIDS
BID NO. '15/06/B**

Bids will be received by the City of Santa Fe and will be delivered to City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. "H", Santa Fe, New Mexico 87505 **until 2:00 P.M. local prevailing time, October 13, 2013. Any bid received after this deadline will not be considered.** This bid is for the purpose of procuring:

SECURITY SERVICES

for

City of Santa Fe Water Facilities & BDDB Facilities (Title)

The bidder's attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over said item shall apply to the bid throughout, and they will be deemed to be included in the bid document the same as though herein written out in full.

The City of Santa Fe is an Equal Opportunity Employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin. The successful bidder will be required to conform to the Equal Opportunity Employment regulations.

Bids may be held for sixty (60) days subject to action by the city. The city reserves the right to reject any or all bids in part or in whole. Bid packets are available by contacting: Shirley Rodriguez, City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. "H" Santa Fe, New Mexico 87505, (505) 955-5711.

ATTEST:



Robert Rodarte, Purchasing Officer

Received by the Santa Fe New Mexican on: 09/19/14
To be published on: 09/24/14

Received by the Albuquerque Journal on: 09/19/14
To be published on: 09/24/14

BID SCHEDULE

BID # '15/06/B

1. ISSUANCE OF BID: September 24, 2014
2. NON-MADATORY WALK THROUGH: October 1, 2014
Buckman Wells 10:30 to noon
Watershed & CRWTP 1:30 to 3:30 pm
3. RECEIPT OF BID: October 13, 2014 at 2:00 P.M.
local prevailing time. Purchasing
Office 2651 Siringo Road Bldg.,
"H" Santa Fe, New Mexico 87505
(505) 955-5711
4. RECOMMENDATION OF AWARD
TO FINANCE COMMITTEE: October 20, 2014
5. PUBLIC UTILITIES COMMITTEE: October 27, 2014
6. RECOMMENDATION OF AWARD
TO CITY COUNCIL: October 29, 2014

DATES OF CONSIDERATION BY FINANCE COMMITTEE AND CITY COUNCIL ARE TENTATIVE AND SUBJECT TO CHANGE WITHOUT NOTICE.

INFORMATION TO BIDDERS

1. **RECEIPT AND OPENING OF BIDS**

The City of Santa Fe Public Utilities Department (herein called "Agency"), invites bids on the form attached hereto, all blanks of which must be appropriately filled in. Bids will be received by the City Purchasing Office until **2:00 P.M. local prevailing time, October 13, 2014**. At this time the City Purchasing Director will publicly open and read bid(s) aloud.

One original and one copy of bid shall be submitted in a sealed envelope, addressed to the Purchasing Office, City of Santa Fe, 2651 Siringo Road, Bldg. "H" Santa Fe, New Mexico 87505. No late bids will be accepted whether hand delivered, mailed or special delivery. Do not rely on "overnight delivery" without including some lead-time. "Overnight delivery" will be determined to be non-responsive if delivered late, no matter whose fault it was. It is recommended that extra days be included in the anticipated delivery date to ensure delivery is timely. The Purchasing Office is closed 12:00 p.m. to 1:00 p.m. The outside of the envelope should clearly indicate the following information:

Bid number: '15/06/B

Title of the bid: The City of Santa Fe Water Facilities and BDDDB Facilities.

Name and address of the bidder:

The Owner may consider informal any bids not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 60 days after the actual date of the opening thereof.

2. **PREPARATION OF BID**

All blank spaces for bid prices must be filled in, ink or type written. If the bid is forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in the bid form. No alternate bids will be considered unless pre-approved (5) five days prior to the bid opening date by Robert Rodarte, Purchasing Officer.

3. **BID SECURITY**

None required.

4. **LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT**

Liquidated damages are not applicable to this bid.

5. **ADDENDA AND INTERPRETATIONS**

No oral interpretations of the meaning of the specifications or other pre-bid documents will be binding. Oral communications are permitted in order to make an assessment of need for an addendum. **ANY QUESTIONS CONCERNING THE BID SHOULD BE ADDRESSED PRIOR TO BID OPENING DATE.**

Every request for such interpretations should be in writing addressed to Robert Rodarte, Purchasing Officer, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505 and to be given consideration must be received at least (5) five days prior to the date fixed for the opening of bids.

Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be delivered to all prospective bidders not later than three days prior to the date fixed for the opening of the bids. Failure of any bidder to receive any such addendum or interpretations shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

The City reserves the right to not comply with these time frames if a critical addendum is required or if the proposal deadline needs to be extended due to a critical reason in the best interest of the City of Santa Fe.

6. **POWER OF ATTORNEY**

Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

7. **LAWS AND REGULATIONS**

The bidders attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over said item shall apply to the bid throughout, and they will be deemed to be included in the bid document the same as though herein written out in full. In particular bidder is notified that criminal laws shall apply prohibiting bribes, gratuity and kick-backs.

8. **METHOD OF AWARD**

The award of the purchase agreement will be made to that vendor who meets or exceeds all specifications and provides the lowest total bid amount. However, delivery date, availability of stock, and complete analysis and comparison of specification details along with past experience of the City of Santa Fe with similar or related units, will be weighed in making a final decision of award.

No important deviation from the terms of this specification is acceptable. It is understood and agreed that the City of Santa Fe reserves the right to reject any and all bids, as authorized by law, and to award to other than the lowest bidder at its discretion, provided that it is in the best interest of the City of Santa Fe, if the CITY PURCHASING MANUAL and pertinent State Statutes are thereby served.

9. **PUBLIC INFORMATION**

All portions of the bid submittals will become public information. Proprietary information may be marked confidential; however, the City Purchasing Officer will make the final determination as to whether the portion of the bid is legitimately confidential information. Sections to be confidential should be clearly marked as such

and readily separable from rest of the bid. In no case will a request for the entire bid to be confidential be considered.

10. **BRAND NAMES**

All brand names specified in this bid are to imply “or equal.” Bidder should include enough information with the bid submitted so this determination can be made. The determination of the Purchasing Officer will make the final determination as to whether the portion of the bid is legitimately confidential information. Sections to be confidential should be clearly marked as such and readily separable from rest of the bid. In no case will a request for the entire bid to be confidential be considered.

11. **TAX EXEMPT**

The City of Santa Fe is tax exempt for state gross receipts taxes for the procurement of tangible personal property, but not for labor or services. A tax exempt certificate will be issued upon written request to the Purchasing Office.

12. **COMPLIANCE WITH CITY’S MINIMUM WAGE RATE ORDINANCE (LIVING WAGE ORDINANCE)**

A copy of the City of Santa Fe Ordinance No. 2003-8, passed by the Santa Fe City Council on February 26, 2003 is attached. The proponent or bidder will be required to submit the proposal or bid such that it complies with the ordinance to the extent applicable. The recommended Contractor will be required to comply with the ordinance to the extent applicable, as well as any subsequent changes to the Ordinance throughout the term of this contract.

13. **RESIDENT, LOCAL AND VETERANS PREFERENCE**

INTENT and POLICY

The city recognizes that the intent of the state resident preference statute is to give New Mexico businesses and contractors an advantage over those businesses, manufacturers and contractors from outside the State of New Mexico. The underlying policy is to give a preference to those persons and companies who contribute to the economy of the State of New Mexico by maintaining businesses and other facilities within the state and giving employment to residents of the state (1969 OP. Att’y Gen. No. 69-42). The city also has adopted a policy to include a local preference to those persons and companies who contribute to the economy of the County of Santa Fe by maintaining businesses and other facilities within the county and giving employment to residents of the county.

APPLICATION-IN STATE AND OUT OF STATE BIDDERS

With acknowledgement of this intent and policy, the preference will only be applied when bids are received from in-state and county businesses, manufacturers and

contractors that are within 5% of low bids received from out-of-state businesses, manufacturers and contractors (13-1-21 (A) –1-21 (F) and 13-4-2 (C) NMSA 1978).

To be considered a resident for application of the preference, the in-state bidder must have included a valid state purchasing certification number with the submitted bid.

Thus it is recommended that in-state bidders obtain a state purchasing certification number and use it on all bids, in order to have the preference applied to their advantage, in the event an out-of-state bid is submitted. In submitting a bid, it should never be assumed that an out-of-state bid will not be submitted.

For information on obtaining a state purchasing certification number, the potential bidder should contact the State of New Mexico Taxation and Revenue Department.

All resident preferences shall be verified through the State Purchasing Office. Applications for resident preference not confirmed by the State Purchasing Office will be rejected. The certification must be under the bidder's business name submitting the bid.

NON-APPLICATION-COMPETING IN-STATE BIDDERS

If the lowest responsive bid and the next responsive bids within 5% of the lowest bid, are all from the state of New Mexico, then the resident preference will not be applied and the state purchasing certification number will not be considered. To be considered an in-state bidder in this situation, the bidders must meet the definition criteria of Chapter 13-1-21 (A) (1) and Chapter 13-4-2 (A) NMSA 1978. After examining the information included in the bid submitted, the City Purchasing Officer may seek additional information of proof to verify that the business is a valid New Mexico Business. If it is determined by the City Purchasing Officer that the information is not factual and the low responsive bid is actually an out-of-state bidder and not a New Mexico business, then the procedures in the previous section may be applied.

If the bidder has met the above criteria, the low responsive "resident" bid shall be multiplied by .95. If that amount is then lower than the low responsive bid of a "non-resident" bidder, the award will be based taking into consideration the resident preference of 5%.

APPLICATION FOR LOCAL PREFERENCE

Principal Office and location must be stated: To qualify for the local preference, the principal place of business of the enterprise must be physically located within the Santa Fe County Geographic Boundaries. The business location inserted on the Form must be a physical location, street address or such. DO NOT use a post office box or other postal address. Principal place of business must have been established no less than six months preceding application for certification.

The PREFERENCE FACTOR for resident and local preferences applied to bids shall be .95 for resident and .90 for local. The local preference for proposals shall be 1.10.

New Mexico Resident Veteran Business Preference: New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for a “resident veteran business”. Certification by the NM Department of Taxation and Revenue for the resident veteran business requires the Offeror to provide evidence of annual revenue and other evidence of veteran status.

An Offeror who wants the veteran business preference to be applied to its proposal is required to submit with its proposal the certification from the NM Department of Taxation and Revenue and the sworn affidavit.

If an Offeror submits with its proposal a copy of a valid and current veteran resident business certificate, 7%, 8%, or 10% of the total weight of all the evaluation factors used in the evaluation of proposal may be awarded.

The local preference or resident business preference is not cumulative with the resident veteran business.

Bids for Goods and Services. When bids for the purchase of goods or services pursuant to Section 22 are received, the lowest responsive bid received from those bidders in the first category listed below shall be multiplied by the Preference Factor. If the resulting price of that bid receiving the preference is lower than or equal to the lowest bid of all bids received, the contract shall be awarded to that bidder receiving the preference. If no bids are received from bidders in the first category, or if the bid receiving the preference does not qualify for an award after multiplication by the Preference Factor, the same procedure shall be followed with respect to the next category of bidders listed to determine if the bid qualifies for award.

Qualifications for Resident Preference. No resident business or manufacturer, as defined, shall be given any preference in the awarding of contracts for furnishing goods or services to the city, unless it shall have qualified with the State Purchasing Agent as a resident business or manufacturer and obtained a certification number as provided in Section 13-1-22 NMSA 1978. The certification number must be submitted with its bid for an offeror to qualify for this preference. The Central Purchasing Office shall determine if a resident preference is applicable to a particular offer on a case by case basis.

Limitation. No offeror shall receive more than a 5% for resident preference pursuant to this section on any one offer submitted. A bidder may not claim cumulative preferences.

Application. This section shall not apply to any purchase of goods or services when the expenditure of federal and/or state funds designated for a specific purchase is involved and the award requirements of the funding prohibit resident preference. This shall be determined in writing by the department with the grant requirements attached to the Purchasing Office before the bid or request for proposals is issued.

Exception. The City Council at their discretion can approve waiving the Local Preference requirements for specific projects or on a case by case basis if it is the City's best interest to do so.

New Mexico Resident Preference Number (if applicable) _____

SPECIAL CONDITIONS

1. **GENERAL**
When the City's Purchasing Officer issues a purchase order document in response to the vendor's bid, a binding contract is created.

2. **ASSIGNMENT**
Neither the order, nor any interest therein, nor claim under, shall be assigned or transferred by the vendor, except as expressly authorized in writing by the City Purchasing Officer's Office. No such consent shall relieve the vendor from its obligations and liabilities under this order.

3. **VARIATION IN SCOPE OF WORK**
No increase in the scope of work of services or equipment after award will be accepted, unless means were provided for within the contract documents. Decreases in the scope of work of services or equipment can be made upon request by the city or if such variation has been caused by documented conditions beyond the vendor's control, and then only to the extent, as specified elsewhere in the contract documents.

4. **DISCOUNTS**
Any applicable discounts should be included in computing the bid submitted. Every effort will be made to process payments within 30 days of satisfactory receipt of goods or services. The City Purchasing Officer shall be the final determination of satisfactory receipt of goods or services.

5. **TAXES**
The price shall include all taxes applicable. The city is exempt from gross receipts tax on tangible personal property. A tax exempt certificate will be issued upon written request.

6. **INVOICING**
(A) The vendor's invoice shall be submitted in duplicate and shall contain the following information: invoice number and date, description of the supplies or services, quantities, unit prices and extended totals. Separate invoices shall be submitted for each and every complete order.

(B) Invoice must be submitted to ACCOUNTS PAYABLE and NOT THE CITY PURCHASING AGENT.

7. **METHOD OF PAYMENT**
Every effort will be made to process payments within 30 days of receipt of a detailed invoice and proof of delivery and acceptance of the products hereby contracted or as otherwise specified in the compensation portion of the contract documents.

8. **DEFAULT**

The city reserves the right to cancel all or any part of this order without cost to the city if the vendor fails to meet the provisions for this order, and except as otherwise provided herein, to hold the vendor liable for any excess cost occasioned by the city due to the vendor's default. The vendor shall not be liable for any excess cost if failure to perform the order arises out of causes beyond the control and with the fault or negligence of the Vendor and these causes have been made known to the City of Santa Fe in written form within five working days of the vendor becoming aware of a cause which may create any delay; such causes include, but are not limited to, acts of God or the public enemy, acts of the State or of the Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above unless the city shall determine that the suppliers or services to be furnished by the sub-contractor are obtainable from other sources in sufficient time to permit the vendor to meet the required delivery schedule. The rights and remedies of the city are not limited to those provided for in this paragraph and are in addition to any other rights provided for by law.

9. **NON-DISCRIMINATION**

By signing this City of Santa Fe bid or proposal, the vendor agrees to comply with the Presidents Executive Order No. 11246 as amended.

10. **NON-COLLUSION**

In signing this bid or proposal, the vendor certifies he has not, either directly or indirectly, entered into action in restraint of full competition in connection with this bid or proposal submittal to the City of Santa Fe.

**SPECIFICATIONS
'15/06/B**

City of Santa Fe Water Facilities & BDDB Facilities

Background

The City of Santa Fe Public Utilities Department is requesting bids from experienced firms to provide security services City of Santa Fe Water Facilities and BDDB Facilities

Services

Security Services shall include, but not be limited to:

Canyon Road Water Treatment Plant & Watershed:

Contractor shall provide one (1) Level III uniformed security officer, as defined pursuant to 16.48.2.19 D. NMAC, in a clearly marked patrol unit (unit defined as a high clearance four wheel drive vehicle) to patrol the Canyon Road Water Treatment Plant and the roadway, including feeder roads, from the Santa FE Watershed Entry Gate to Elk Cabin on a continuous basis, three (3) shifts per day, seven (7) days per week, 365 days per year beginning at 7 am and ending at 7 am each day.

A. The uniformed security officer shall provide the following services:

- (1) Conduct patrols to areas described above.
- (2) Enter the Canyon Road Water Treatment Plant at 12 am and 3 am (Monday-Sunday) insuring all facilities and staff are secure;
- (3) Contact the CRWTP (505-955-4371) with any suspicious activity, security breaches or unusual findings and immediately report such situations to the operator on duty.
- (4) Immediately notify the fire department, police department and manager/operators on duty of incidents, acts of violence, fire/emergency.
- (5) Utilize the toggle verification (physically operate the door handle) to check locked doors at all facilities and structures.
- (6) Provide response on an on-call basis to incidents as directed by the operator on duty within 15 minutes of notification.
- (7) Provide written reports as well as a verbal briefing to the operator on duty, at the end of each shift to the facility control room outlining any investigative services that were conducted, an inventory of persons or activities on facility property and details of whether suspicious activity was deterred or if fire/police were notified for unauthorized entry or emergency situations that were observed.

(8) Contractor shall supply Level III armed or unarmed security services as directed and at locations specified by the CRWTP Operations Manager as needed in response to emergency situations and other situations.

(9) Perform Trail Patrols on foot, all-terrain vehicles or horseback, once per month, as part of normal watershed patrol.

Northwest Well, Buckman Wells 1-13, Booster Stations 1-4, All Potable Water Storage Tanks and All City Wells Sites:

Contractor shall provide one (1) Level III uniformed security officer, as defined pursuant to 16.48.2.19 D. NMAC, in a clearly marked patrol unit (unit defined as a high clearance four wheel drive vehicle) to patrol the Canyon Road Water Treatment Plant and the roadway, including feeder roads, from the Santa FE Watershed Entry Gate to Elk Cabin on a continuous basis, three (3) shifts per day, seven (7) days per week, 365 days per year beginning at 7 am and ending at 7 am each day.

- All Buckman Wells (13)
- All City Wells Including Northwest Well (7)
- All Booster Stations (4)
- All Potable Water Storage Tanks (9)

A. The uniformed security officer shall provide the following services:

(1) Conduct patrols in a clearly marked patrol unit with emergency lights to the areas described above performing a complete visual walk around of every site to ensure all locks, hatches, electrical panels, manholes are secured.

(2) Contact the CRWTP (505-955-4371) with any suspicious activity, security breaches or unusual findings and immediately report such situations to the operator on duty.

(3) Immediately notify the fire department, police department and manager/operators on duty of incidents, acts of violence, fire/emergency.

(4) Fully cooperate with the City of Santa Fe Police Department, The Santa Fe County Sheriff Department, the New Mexico State Police and all applicable law enforcement agencies on the investigation of incidents, when required. Contractor shall also provide copies of all relevant reports, logs and photographs and all evidence to relevant law enforcement agencies.

(5) Utilize the toggle verification (physically operate the door handle) to check locked doors at all facilities.

(6) Provide response on an on-call basis to incidents as directed by the operator on duty within 10 minutes of notification.

(7) Provide written reports at the end of each shift to the facility control room outlining any investigative services that were conducted, an inventory of persons or activities on facility property

and details of whether suspicious activity was deterred or if fire/police were notified for unauthorized entry or emergency situations that were observed.

(8) Contractor shall supply Level III armed or unarmed security services as directed and at locations specified by the CRWTP Operations Manager on an as needed basis.

BDDB Facilities:

Contractor shall provide One (1) Level III uniformed security officer, as defined pursuant to 16.48.2.19 D. NMAC, in a clearly marked patrol unit (unit defined as a high clearance four wheel drive vehicle) to patrol the Buckman Regional Water Treatment facilities including: the raw water lift station, booster station (1A) /sediment removal facility, booster station (2A) including solar facility and the infrastructure between the Buckman Regional Water Treatment Plant and the diversion structure. Services shall be provided 24 hours a day, 365 days a year, except for non-City of Santa Fe holidays and Mondays-Fridays during the hours of 8AM and 5PM.

B. The security officer shall provide the following services:

- (1) Conduct patrols as to the areas described above
- (2) Contact the Buckman Regional Water Treatment Plant control room (505-955-4505) with any suspicious activity, security breaches or unusual findings and immediately report such situations to the operator on duty.
- (3) Immediately notify the fire department, police department and manager/operators on duty at the BDDB of incidents, acts of violence, fire/emergency.
- (4) Utilize the toggle verification (physically operate the door handle) to check locked doors at the raw water lift station and buildings at 1A and 2A.
- (5) Check fencing and gates surrounding the buildings at the raw water lift station buildings, 1A and 2A including the solar facility to ensure they are locked.
- (6) Provide on-call service during the evening and/or early morning hours to accompany facility operators to the river in an effort to provide security protection while sampling is conducted.
- (7) Provide response on an on-call basis to incidents as directed by the operator on duty.
- (8) Provide written reports at the end of each shift to the facility control room outlining any investigative services that were conducted, an inventory of persons or activities on facility property and details of whether suspicious activity was deterred or if fire/police were notified for unauthorized entry or emergency situations that were observed.

(9) Contractor shall supply Level III armed or unarmed security services as directed and at locations specified by the Buckman Direct Diversion Facility Manager.

2. STANDARD OF PERFORMANCE; LICENSES

A. At no time shall the Contractor assign an employee to provide services under the terms and conditions of this Agreement who has been convicted of a felony or a crime of moral turpitude.

B. At no time shall the Contractor or its employees assigned under the terms and conditions of this Agreement; accept fees or other monetary compensation of any kind from patrons or invitees for services rendered or under this Agreement.

C. Contractor shall assign a contract manager who shall be responsible for the direct supervision of Contractor's employees assigned to perform services under this Agreement who shall be available at reasonable times to consult with the designated City of Santa Fe Public Utilities Department (City) and the Buckman Direct Diversion Board (BDDDB) representative regarding the services rendered or services to be rendered under this Agreement.

D. Contractor shall submit to the City and the BDDDB, a complete background investigation report for all personnel assigned to the City and BDDDB under the terms of this Agreement, seven (7) days prior to each assignment. The background investigation report shall include, but not be limited to:

- (1) Verification of criminal history and background.
- (2) Confirmation of previous employment.
- (3) Verification of all application information.

E. The City and the BDDDB reserves the right to fingerprint and photograph all personnel assigned under the terms of this Agreement. If the Contractor receives an unsuitable report on any of its employees assigned to this Agreement subsequent to the commencement of service, or the City and the BDDDB finds a Contractor's employee unsuitable or unfit for assigned duties, the employee will not be allowed to continue work, or be assigned to work, under the terms of this Agreement

F. Contractor shall assign personnel who have the same comparable training levels and the following qualifications as outlined below and shall have all documents available for review by the City and the BDDDB:

- (1) Contractor shall comply with required federal, state and local licensing requirements. Contractor shall report the potential for license suspension, revocation, or limitation to the the City and the BDDDB within ten (10) days of notice from the State, County or City Licensing Boards;
- (3) Contractor's employees shall have the ability to read and write English, particularly in emergency situations requiring clear and

definitive articulation to assure confidence, control and safety to those involved;

(4) Contractor's employees shall possess the ability to pass an annual physical fitness examination, including but not limited to drug and alcohol testing, by a licensed physician;

(5) Contractor's employees shall possess cardio pulmonary resuscitation (CPR) and First Aid certification as set forth by the American Red Cross or an equivalent association;

(6) Contractor's employees shall possess a valid appropriate driver's license;

(7) Be current and fully qualified to carry a firearm when required

to.

G. Contractor shall deliver to the City and the BDDB, no less than 24 hours prior to an employee being assigned to their post, a Letter of Affidavit for each employee assigned or subsequently assigned under the terms of this Agreement, certifying that the employee has met all of the hiring and training requirements. The Letter of Affidavit shall include but not be limited to:

(1) Outline of security experience

(2) Outline of classroom training to include but not be limited to courses, dates, hours, and any certification(s).

(3) Outline of related training to include but not be limited to courses, dates, hours, and certifications(s).

(4) Verification of all employment application information.

(5) Verification that Contractor's employee assigned under the terms of this Agreement has received and reviewed all post orders.

H. Contractor shall supply all standard uniforms and assure that they are regularly cleaned and maintained.

I. Contractor shall supply and maintain the following equipment:

(1) Contractor shall supply a vehicle for each shift that allows travel through dirt roads that could be snow packed or washed out by weather. Unit shall be a clearly marked security unit with emergency lights.

(2) Contractor shall supply all weather gear, leather gear, flashlights, pagers, cellular phones, radios for and other equipment as is mutually agreed upon between the City and the BDDB and the Contractor, in order to meet the requirements of this Agreement. The Contractor will also provide the necessary cell phone or radio equipment as mutually agreed upon by both parties;

(3) Contractor will be required to repair or replace, at its cost, any equipment that is damaged or lost through abuse or neglect by the Contractor or its employees.

(4) Contractor shall insure all horses entering the Watershed must be fed weed free hay three days prior or have a bag to and capture their waste products.

J. Contractor shall be required to submit all incident reports, logs or ledgers to the City and the BDDB or its designated representatives on a daily basis, and additionally upon request.

K. Contractor shall have a dispatch center answering its phones 24 hours every day. A contract answering service or answering machine is not acceptable. Contractor shall respond to all telephone inquiries in a timely manner and immediately in the event of an urgent matter requiring attention.

L. Contractor shall be required to replace or repair at its cost any equipment owned by the City and the BDDB (without limitation, communication equipment, fire equipment, safety equipment, locks, keys, access control systems, etc.) damaged or lost through abuse or neglect by the Contractor or its employees. Use of the City and the BDDB's telephone system for personal use is prohibited, and the cost of such usage will either be billed to the Contractor or deducted from the monthly payment, at the discretion of the City and the BDDB

**CITY OF SANTA FE
BID FORM
BID # '15/06/B**

EXCEPTIONS TO SPECIFICATIONS

Bidder is required to return **two (2) complete copies** of these specifications, completely furnishing all information requested. All requested information, data, literature, drawings, etc. must be included with the bid submitted.

Bidder must check one of the following:

- a. All specifications, terms and conditions are met.
- b. Exceptions have been taken and noted on attached sheet (s).

All variations and/or exceptions to the specifications must be documented, referencing applicable paragraph (s) and explained in detail. Attach as many pages as necessary. If no exceptions are taken, it will be assumed that the bid meets all specifications and terms and conditions as stated in this complete bid package. Failure to list exceptions may disqualify bid. Delivery of non-conforming goods is at the expense of the bidder and/or other penalties.

All other specifications not detailed herein shall be as listed in the manufacturer's printed literature for the current standard model. Manufacturer's printed literature and specifications sheets shall be submitted with the bid.

Exceptions will not necessarily eliminate the bid. City staff shall determine acceptance or non-acceptance of exceptions. Unless otherwise noted and approved, it is assumed that delivery of the unit shall be as stated.

Signed submission of this bid represents that the bidder has accepted all terms, conditions and requirements of the bid unless a written exception is made and, if awarded, the bid will represent the agreement between the parties. Additionally, by signing this bid, the bidder warrants that there was no collusion of any kind in submission of this bid.

WARRANTIES

Warranty required for material and workmanship for minimum of one year unless otherwise stated in the bid. Warranties shall begin when the City accepts satisfactory delivery of equipment from the bidder. The warranty contract shall be solely with the bidder and the bidder shall be responsible for ensuring all warranty work is satisfactorily completed on any component of the unit. All details of warranties shall be included with the bid.

State name, address and phone number of nearest authorized maintenance representative:

DELIVERY

Bids shall include all costs of delivery to the City of Santa Fe, the specific location to be as designated by City staff. Unit shall be completely operational and ready for use.

Date of delivery after notice to proceed:

_____ calendar days.

Bidder SHALL INCLUDE descriptive material such as plans, drawings, photographs, diagrams, illustrations, written descriptions and manufacturer’s literature with specifications with the bid. Additional information or details may be required after the bid opening. Bids may be disqualified if such information is not adequate to make a reasonably informed decision as to qualify, design, capabilities, etc.

Canyon Road Water Treatment Plant & Watershed:

HOURLY RATE: _____

TOTAL FOR 8760 REGULAR HOURS: _____

Watershed Patrols, Foot, All-Terrain Vehicles or Horse Back:

HOURLY RATE: _____

TOTAL FOR 192 HOURS: _____

Buckman Well Sites, Booster Stations, City Wells, Storage Tanks:

HOURLY RATE: _____

TOTAL FOR 8760 REGULAR HOURS: _____

EMERGENCY CALL IN CRWTP & Watershed:

HOURLY RATE: _____

TOTAL FOR 40 HOURS: _____

EMERGENCY CALL IN Buckman Well Sites:

HOURLY RATE: _____

TOTAL FOR 40 REGULAR HOURS: _____

BUCKMAN DIRECT DIVERSION:

HOURLY RATE FOR 5496 REGULAR HOURS: _____

HOURLY RATE FOR 120 HOLIDAY HOURS: _____

TOTAL FOR 5616 REGULAR AND HOLIDAY HOURS: _____

EMERGENCY CALL IN BDDDB:

HOURLY RATE: _____

TOTAL FOR 60 REGULAR HOURS: _____

TOTAL BID AMOUNT INCLUDING ALL HOURS: \$ _____

The City reserves the right for external and city entities to piggyback off this bid for security services during the active term of the contract.

BIDDER'S:

Firm

Address

Authorized Signature

Print Name

Position

Phone Number

Fax Number

DATE

N.M. RESIDENT PREFERENCE NUMBER (if applicable): _____
TWO COMPLETE COPIES OF THE BID SUBMITTAL IS REQUIRED

APPENDIX A

Campaign Contribution Disclosure Form

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature Date

Title (position)

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature Date

INSTRUCTIONS RELATING TO LOCAL PREFERENCE CERTIFICATION FORM

1. **All information must be provided.** A 10% local preference may be available for this procurement. To qualify for this preference, an offeror **must** complete and submit **the local preference certification form with its offer**. If an offer is received without the form attached, completed, notarized, and signed or if the form is received without the required information, the preference will not be applied. **The local preference form or a corrected form will not be accepted after the deadline for receipt of bids or proposals.**
2. **Local Preference precedence over State Preference:** The Local Preference takes precedence over the State Resident Preference and only one such preference will be applied to any one bid or proposal. If it is determined that the local preference applies to one or more offerors in any solicitation, the State Resident Preference will not be applied to any offers.
3. **Principal Office and location must be stated:** To qualify for the local preference, the principal place of business of the enterprise must be physically located within the Santa Fe County Geographic Boundaries. The business location inserted on the Form must be a physical location, street address or such. **DO NOT use a post office box or other postal address. Principal place of business must have been established no less than six months preceding application for certification.**
4. **Subcontractors do not qualify:** Only the business, or if joint venture, one of the parties of the joint venture, which will actually be performing the services or providing the goods solicited by this request and will be responsible under any resulting contract will qualify for this preference. A subcontractor may not qualify on behalf of a prime contractor.
5. **Definition:** The following definition applies to this preference.

A local business is an entity with its Principal office and place of business located in Santa Fe County.

A Principal office is defined as: The main or home office of the business as identified in tax returns, business licenses and other official business documents. A Principal office is the primary location where the business conducts its daily operations, for the general public, if applicable. A temporary location or movable property, or one that is established to oversee a City of Santa Fe project does not qualify as a Principal office.

Additional Documentation: If requested a business will be required to provide, within 3 working days of the request, documentation to substantiate the information provided on the form. Any business which must be registered under state law must be able to show that it is a business entity in good standing if so requested.

LOCAL PREFERENCE CERTIFICATION FORM

RFP/RFB NO: _____

Business Name: _____

Principal Office: _____
Street Address City State Zip Code

City of Santa Fe Business License # _____ (Attach Copy to this Form)

Date Principal Office was established: _____ (Established date must be six months before date of Publication of this RFP or RFB).

CERTIFICATION

I hereby certify that the business set out above is the principal Offeror submitting this offer or is one of the principal Offerors jointly submitting this offer (e.g. as a partnership, joint venture). I hereby certify that the information which I have provided on this Form is true and correct, that I am authorized to sign on behalf of the business set out above and, if requested by the City of Santa Fe, will provide within 3 working days of receipt of notice, the necessary documents to substantiate the information provided on this Form.

Signature of Authorized Individual: _____

Printed Name: _____

Title: _____ Date: _____

Subscribed and sworn before me by _____ this _____, day of _____

My commission expires _____

Notary Public

SEAL

YOU MUST RETURN THIS FORM WITH YOU OFFER

RESIDENT VETERANS PREFERENCE CERTIFICATION

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement.

Please check one box only:

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I agree to submit a report or reports to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

In conjunction with this procurement and the requirements of this business application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, which awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

I understand that knowingly giving false or misleading information on this report constitutes a crime.

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

(Signature of Business Representative)*

(Date)

*Must be an authorized signatory of the Business.

The representation made by checking the above boxes constitutes a material representation by the business. If the statements are proven to be incorrect, this may result in denial of an award or un-award of the procurement.

SIGNED AND SEALED THIS _____ DAY OF _____, 2012.

NOTARY PUBLIC

My Commission Expires:

Living Wage Ordinance

Ordinance Number §28-1-28-1.12DSFCC 1987

Purpose:

The City of Santa Fe Living Wage Ordinance was adopted to establish minimum hourly wages.

Who it affects:

- All profit and nonprofit businesses required to have a business license or business registration with the City of Santa Fe.

Compliance:

- Affected businesses are required to pay employees an hourly wage of \$10.66 effective March 1, 2014.
- Beginning January 1, 2009, and each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to the previous year's increase, if any, in the Consumer Price Index for the Western Region for Urban Wage Earners and Clerical Workers.
- For workers who customarily receive more than \$100 per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited toward satisfaction of the minimum wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.
- The value of health care benefits and child care shall be considered as an element of wages.
- Nonprofit organizations whose primary source of funds is from Medicaid waivers are *exempt*.

Prohibitions against retaliation and circumvention:

- It shall be unlawful for any business, employer or employer's agent or representative to take any action against an individual in retaliation for exercising or communicating rights under this ordinance. This includes retaliation against individuals who mistakenly but in good faith allege noncompliance with the ordinance.
- Taking adverse action against an individual within 60 days of the individual's assertion of or communication of information regarding rights raises a reputable presumption of retaliation for assertion of rights.
- It shall be unlawful for any business or employer to intentionally circumvent the requirements of this ordinance by contracting portions of its operations or leasing portions of its property.

Enforcement and Remedies:

- Administrative Enforcement—The city manager, or his/her designee, is authorized, as appropriate and as resources permit, to enforce this ordinance.
- Criminal Penalty—A person violating this ordinance shall be guilty of a misdemeanor and, upon conviction, for each offense may be subject to fines and imprisonment as set forth in Section 1-3 SFCC 1987. A person violating any of the requirements of this ordinance shall be guilty of a separate offense for each day or portion thereof and for each worker or person to whom any such violation occurred.
- Other Remedies—The city, any individual aggrieved by a violation of this ordinance, or any entity the members of which have been aggrieved by a violation of this ordinance, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this ordinance and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

Nonexclusive Remedies and Penalties—The remedies provided in this section are not exclusive, and nothing in this ordinance shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

Posting and Publication:

- Any business subject to the provisions of this ordinance shall as a condition to obtaining and holding a City of Santa Fe business license or registration, post and display in a prominent location next to its business license or registration on the business premises a notice, in English and Spanish, that the business is in compliance with the provisions of this ordinance and post the text of this notice. Failure to comply with this section shall be construed a violation of this ordinance and, in addition, shall be considered grounds for suspensions, revocation, or termination of the business license or registration.

For more information, please contact: Constituent Services at 505-955-6949 Email: constituentservices@santafenm.gov

REQUEST FOR BIDS
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 _____ (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 physical prevention and protection to persons and property for the City in the following general areas, The Santa Fe Watershed, City Well Fields and Water Storage Tank Locations and Water Facilities. Contractor shall assign a contract manager who shall be responsible for the direct supervision of Contractor's employees assigned to the City and shall be available at reasonable times to consult with the Source of Supply Operations Manager or designated representative regarding the services rendered or services to be rendered under this Agreement. A description of the required services is given in the following paragraphs:

A. Canyon Road Water Treatment Plant & Watershed:

Contractor shall provide one (1) Level III uniformed security officer, as defined pursuant to 16.48.2.19 D. NMAC, in a clearly marked patrol unit (unit defined as a high clearance four wheel drive vehicle) to patrol the Canyon Road Water Treatment Plant and the roadway, including feeder roads, from the Santa FE Watershed Entry Gate to Elk Cabin on a continuous basis, three (3) shifts per day, seven (7) days per week, 365 days per year beginning at 7 am and ending at 7 am each day.

The uniformed security officer shall provide the following services:

- (1) Conduct patrols to areas described above.
- (2) Enter the Canyon Road Water Treatment Plant at 12 am and 3 am (Monday-Sunday) insuring all facilities and staff are secure;

(3) Contact the CRWTP (505-955-4371) with any suspicious activity, security breaches or unusual findings and immediately report such situations to the operator on duty.

(4) Immediately notify the fire department, police department and manager/operators on duty of incidents, acts of violence, fire/emergency.

(5) Utilize the toggle verification (physically operate the door handle) to check locked doors at all facilities and structures.

(6) Provide response on an on-call basis to incidents as directed by the operator on duty within 15 minutes of notification.

(7) Provide written reports as well as a verbal briefing to the operator on duty, at the end of each shift to the facility control room outlining any investigative services that were conducted, an inventory of persons or activities on facility property and details of whether suspicious activity was deterred or if fire/police were notified for unauthorized entry or emergency situations that were observed.

(8) Contractor shall supply Level III armed or unarmed security services as directed and at locations specified by the CRWTP Operations Manager as needed in response to emergency situations and other situations.

(9) Perform Trail Patrols on foot, horseback, or in approved all-terrain vehicles once per month, as part of normal watershed patrol.

B. Northwest Well, Buckman Wells 1-13, Booster Stations 1-4, All Potable Water Storage Tanks and All City Wells Sites:

Contractor shall provide one (1) Level III uniformed security officer, as defined pursuant to 16.48.2.19 D. NMAC, in a clearly marked patrol unit (unit defined as a high clearance four wheel drive vehicle) to patrol the Canyon Road Water Treatment Plant and the roadway, including feeder roads, from the Santa FE Watershed Entry Gate to Elk Cabin on a continuous basis, three (3) shifts per day, seven (7) days per week, 365 days per year beginning at 7 am and ending at 7 am each day.

- All Buckman Wells (13)
- All City Wells Including Northwest Well (7)
- All Booster Stations (4)
- All Potable Water Storage Tanks (9)

The uniformed security officer shall provide the following services:

(1) Conduct patrols in a clearly marked patrol unit with emergency lights to the areas described above performing a complete visual walk around of every site to ensure all locks, hatches, electrical panels, manholes are secured.

(2) Contact the CRWTP (505-955-4371) with any suspicious activity, security breaches or unusual findings and immediately report such situations to the operator on duty.

(3) Immediately notify the fire department, police department and manager/operators on duty of incidents, acts of violence, fire/emergency.

(4) Fully cooperate with the City of Santa Fe Police Department, The Santa Fe County Sheriff Department, the New Mexico State Police and all applicable law enforcement agencies on the investigation of incidents, when required. Contractor shall also provide copies of all relevant reports, logs and photographs and all evidence to relevant law enforcement agencies.

(5) Utilize the toggle verification (physically operate the door handle) to check locked doors at all facilities.

(6) Provide response on an on-call basis to incidents as directed by the operator on duty within 10 minutes of notification.

(7) Provide written reports at the end of each shift to the facility control room outlining any investigative services that were conducted, an inventory of persons or activities on facility property and details of whether suspicious activity was deterred or if fire/police were notified for unauthorized entry or emergency situations that were observed.

(8) Contractor shall supply Level III armed or unarmed security services as directed and at locations specified by the CRWTP Operations Manager on an as needed basis.

2. STANDARD OF PERFORMANCE AND LICENSES

A. At no time shall the Contractor assign an employee to provide services under the terms and conditions of this Agreement who has been convicted of a felony or a crime of moral turpitude.

B. At no time shall the Contractor or its employees assigned under the terms and conditions of this Agreement; accept fees or other monetary compensation of any kind from patrons or invitees for services rendered or under this Agreement.

C. Contractor shall assign a contract manager who shall be responsible for the direct supervision of Contractor's employees assigned to perform services under this Agreement who shall be available at reasonable times to consult with the designated City of Santa Fe Public Utilities Department (City) representative regarding the services rendered or services to be rendered under this Agreement.

D. Contractor shall submit to the City, a complete background investigation report for all personnel assigned to the City under the terms of this Agreement, seven (7) days prior to each assignment. The background investigation report shall include, but not be limited to:

- (1) Verification of criminal history and background.
- (2) Confirmation of previous employment.
- (3) Verification of all application information.

E. The City reserves the right to fingerprint and photograph all personnel assigned under the terms of this Agreement. If the Contractor receives an unsuitable report on any of its employees assigned to this Agreement subsequent to the commencement of service, or the City finds a Contractor's employee unsuitable or unfit for assigned duties, the employee will not be allowed to continue work, or be assigned to work, under the terms of this Agreement

F. Contractor shall assign personnel who have the same comparable training levels and the following qualifications as outlined below and shall have all documents available for review by the City:

- (1) Contractor shall comply with required federal, state and local licensing requirements. Contractor shall report the potential for license suspension, revocation, or limitation to the City within ten (10) days of notice from the State, County or City Licensing Boards;
- (2) Contractor's employees shall have the ability to read and write English, particularly in emergency situations requiring clear and definitive articulation to assure confidence, control and safety to those involved;
- (3) Contractor's employees shall possess the ability to pass an annual physical fitness examination, including but not limited to drug and alcohol testing, by a licensed physician;
- (4) Contractor's employees shall possess cardio pulmonary resuscitation (CPR) and First Aid certification as set forth by the American Red Cross or an equivalent association;
- (5) Contractor's employees shall possess a valid appropriate driver's license;
- (6) Be current and fully qualified to carry a firearm when required to.

G. Contractor shall deliver to the City, no less than 24 hours prior to an employee being assigned to their post, a Letter of Affidavit for each employee assigned or subsequently assigned under the terms of this Agreement, certifying that the employee has met all of the hiring and training requirements. The Letter of Affidavit shall include but not be limited to:

- (1) Outline of security experience
- (2) Outline of classroom training to include but not be limited to courses, dates, hours, and any certification(s).
- (3) Outline of related training to include but not be limited to courses, dates, hours, and certifications(s).
- (4) Verification of all employment application information.
- (5) Verification that Contractor's employee assigned under the terms of this Agreement has received and reviewed all post orders.

H. Contractor shall supply all standard uniforms and assure that they are regularly cleaned and maintained.

I. Contractor shall supply and maintain the following equipment:

(1) Contractor shall supply a vehicle for each shift that allows travel through dirt roads that could be snow packed or washed out by weather. Unit shall be a clearly marked security unit with emergency lights.

(2) Contractor shall supply all weather gear, leather gear, flashlights, pagers, cellular phones, radios for and other equipment as is mutually agreed upon between the City and the Contractor, in order to meet the requirements of this Agreement. The Contractor will also provide the necessary cell phone or radio equipment as mutually agreed upon by both parties;

(3) Contractor will be required to repair or replace, at its cost, any equipment that is damaged or lost through abuse or neglect by the Contractor or its employees.

(4) Contractor shall insure all horses entering the Watershed must be fed weed free hay three days prior or have a bag to and capture their waste products.

J. Contractor shall be required to submit all incident reports, logs or ledgers to the City or its designated representatives on a daily basis, and additionally upon request.

K. Contractor shall have a dispatch center answering its phones 24 hours every day. A contract answering service or answering machine is not acceptable. Contractor shall respond to all telephone inquiries in a timely manner and immediately in the event of an urgent matter requiring attention.

L. Contractor shall be required to replace or repair at its cost any equipment owned by the City (without limitation, communication equipment, fire equipment, safety equipment, locks, keys, access control systems, etc.) damaged or lost through abuse or neglect by the Contractor or its employees. Use of the City's telephone system for personal use is prohibited, and the cost of such usage will either be billed to the Contractor or deducted from the monthly payment, at the discretion of the City.

3. COMPENSATION

A. The City shall pay the Contractor in full payment for services rendered, a sum not to exceed _____ (\$_____), plus/inclusive of applicable gross receipts taxes. Payment shall be made for services actually rendered at an hourly rate of \$_____ per hour for each Security Officer III, including the

vehicle and all equipment for each Security Officer III. The hourly estimates are given on Exhibit ____.

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

C. Payment shall be made upon receipt of services completed. Compensation shall be paid only for services actually performed.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of the 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 for the remainder of the current Fiscal Year, effective when executed by the City and will terminate on _____, unless terminated sooner pursuant to Article 6 below. This Contract shall have the option to be renewable for three (3) additional twelve (12) month terms up to four (4) years with the mutual agreement of both parties. Contractor shall give the City written notice of the intent to renew 60 days prior to the expiration date of this agreement.

6. TERMINATION

A. This Agreement may be terminated by the City upon 30 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) If compensation is not based upon hourly rates for services rendered, the City shall pay the Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination, and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then Contractor shall be paid for services rendered and expenses incurred through the date 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 contractors 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

The 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 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 Worker's 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 on account of any suit, judgment, execution, claim and 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, including payments of all attorney's fees and costs.

14. 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.

15. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three (3) 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 illegal payments.

16. 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.

17. AMENDMENT

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

18. 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 understanding 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.

19. 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, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

20. SEVERABILITY

In case any one or more of the provision 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.

21. 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:

To City: Santa Fe Water Division
Public Utilities Department
Attn: Source of Supply Operations Manager
P.O. Box 909
Santa Fe, New Mexico 87504-0909

To Contractor: _____

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

CITY OF SANTA FE:

CONTRACTOR:

JAVIER M. GONZALES, MAYOR

NAME & TITLE

DATE: _____

DATE: _____

CRS# _____
City of Santa Fe Business Registration

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

MDM 9/17/14
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

TERESITA GARCIA,
ASSISTANT FINANCE DIRECTOR

52361.510310
Business Unit / Line Item

**BUCKMAN DIRECT DIVERSION BOARD
PROFESSIONAL SERVICES AGREEMENT
WITH**

THIS AGREEMENT is made and entered into by and between the Buckman Direct Diversion Board (“BDDDB”) and _____ (“Contractor”). The date of this Agreement shall be the date when it is executed by the Chair of the BDDDB.

1. SCOPE OF SERVICES:

Contractor shall provide the service of physical prevention and protection to persons and property for the BDDDB at the Buckman Direct Diversion facilities. Contractor shall assign a contract manager who shall be responsible for the direct supervision of Contractor’s employees assigned to the BDDDB and shall be available at reasonable times to consult with the BDDDB Facilities Manager or designated representative regarding the services rendered or services to be rendered under this Agreement. A description of the required services is as follows:

Contractor shall provide One (1) Level III uniformed security officer, as defined pursuant to 16.48.2.19 D. NMAC, in a clearly marked patrol unit (unit defined as a high clearance four wheel drive vehicle) to patrol the Buckman Regional Water Treatment facilities including: the raw water lift station, booster station (1A) /sediment removal facility, booster station (2A) including solar facility and the infrastructure between the Buckman Regional Water Treatment Plant and the diversion structure. Services shall be provided 24 hours a day, 365 days a year.

The security officer shall provide the following services:

- (1) Conduct patrols as to the areas described above.
- (2) Contact the Buckman Regional Water Treatment Plant control room (505-955-4505) with any suspicious activity, security breaches or unusual findings and immediately report such situations to the operator on duty.

- (3) Immediately notify the fire department, police department and manager/operators on duty at the BDDB of incidents, acts of violence, fire/emergency.
- (4) Utilize the toggle verification (physically operate the door handle) to check locked doors at the raw water lift station and buildings at 1A and 2A.
- (5) Check fencing and gates surrounding the buildings at the raw water lift station buildings, 1A and 2A including the solar facility to ensure they are locked.
- (6) Provide on-call service during the evening and/or early morning hours to accompany facility operators to the river in an effort to provide security protection while sampling is conducted.
- (7) Provide response on an on-call basis to incidents as directed by the operator on duty.
- (8) Provide written reports at the end of each shift to the facility control room outlining any investigative services that were conducted, an inventory of persons or activities on facility property and details of whether suspicious activity was deterred or if fire/police were notified for unauthorized entry or emergency situations that were observed.
- (9) Contractor shall supply Level III armed or unarmed security services as directed and at locations specified by the BDDB Facilities Manager.

2. STANDARD OF PERFORMANCE; LICENSES

A. At no time shall Contractor assign an employee to provide services under the terms and conditions of this Agreement who has been convicted of a felony or a crime of moral turpitude.

B. At no time shall Contractor or its employees assigned under the terms and conditions of this Agreement accept fees or other monetary compensation of any kind from patrons or invitees for services rendered or under this Agreement.

C. Contractor shall assign a contract manager who shall be responsible for the direct supervision of Contractor's employees assigned to perform services under this Agreement who shall be available at reasonable times to consult with the designated BDDB representative regarding the services rendered or services to be rendered under this Agreement.

D. Contractor shall submit to the BDDB, a complete background investigation report for all personnel assigned to the City under the terms of this Agreement,

seven (7) days prior to each assignment. The background investigation report shall include, but not be limited to:

- (1) Verification of criminal history and background.
- (2) Confirmation of previous employment.
- (3) Verification of all application information.

E. The BDDDB reserves the right to fingerprint and photograph all personnel assigned under the terms of this Agreement. If Contractor receives an unsuitable report on any of its employees assigned to this Agreement subsequent to the commencement of service, or the BDDDB finds a Contractor's employee unsuitable or unfit for assigned duties, the employee will not be allowed to continue work, or be assigned to work, under the terms of this Agreement

F. Contractor shall assign personnel who have the same comparable training levels and the following qualifications as outlined below and shall have all documents available for review by the BDDDB:

- 1) Contractor shall comply with required federal, state and local licensing requirements. Contractor shall report the potential for license suspension, revocation, or limitation to the BDDDB within ten (10) days of notice from the State, County or City Licensing authorities.
- 2) Contractor's employees shall have the ability to read and write English, particularly in emergency situations requiring clear and definitive articulation to assure confidence, control and safety to those involved;
- 3) Contractor's employees shall possess the ability to pass an annual physical fitness examination, including but not limited to drug and alcohol testing, by a licensed physician;
- 4) Contractor's employees shall possess cardio pulmonary resuscitation (CPR) and First Aid certification as set forth by the American Red Cross or an equivalent association;
- 5) Contractor's employees shall possess a valid appropriate driver's license
- 6) Contractor's employees shall be current and fully qualified to carry a firearm when required to.

G. Contractor shall deliver to the BDDDB, no less than 24 hours prior to an employee being assigned to their post, a Letter of Affidavit for each employee assigned or subsequently assigned under the terms of this Agreement, certifying that the employee has met all of the hiring and training requirements. The Letter of Affidavit shall include but not be limited to:

- (1) Outline of security experience
- (2) Outline of classroom training to include but not be limited to courses, dates, hours, and any certification(s).
- (3) Outline of related training to include but not be limited to courses, dates, hours, and certifications(s).
- (4) Verification of all employment application information.
- (5) Verification that Contractor's employee assigned under the terms of this Agreement has received and reviewed all post orders.

H. Contractor shall supply all standard uniforms and assure that they are regularly cleaned and maintained.

I. Contractor shall supply and maintain the following equipment:

- (1) Contractor shall supply a vehicle for each shift that allows travel through dirt roads that could be snow packed or washed out by weather. Unit shall be a clearly marked security unit with emergency lights.
- (2) Contractor shall supply all weather gear, leather gear, flashlights, pagers, cellular phones, radios for and other equipment as is mutually agreed upon between the BDDDB and Contractor, in order to meet the requirements of this Agreement. Contractor will also provide the necessary cell phone or radio equipment as mutually agreed upon by both parties;
- (3) Contractor will be required to repair or replace, at its cost, any equipment that is damaged or lost through abuse or neglect by Contractor or its employees.

J. Contractor shall be required to submit all incident reports, logs or ledgers to the BDDDB or its designated representatives on a daily basis, and additionally upon request.

K. Contractor shall have a dispatch center answering its phones 24 hours every day. A contract answering service or answering machine is not acceptable. Contractor shall respond to all telephone inquiries in a timely manner and immediately in the event of an urgent matter requiring attention.

L. Contractor shall be required to replace or repair at its cost any equipment owned by the BDDDB (without limitation, communication equipment, fire equipment, safety equipment, locks, keys, access control systems, etc.) damaged or lost through abuse or neglect by

Contractor or its employees. Use of the BDDB's telephone system for personal use is prohibited, and the cost of such usage will either be billed to Contractor or deducted from the monthly payment, at the discretion of the BDDB

2. COMPENSATION

A. Payment shall be made for services actually rendered at an hourly rate of _____ per hour for each Security Officer III, including the vehicle and all equipment for each Security Officer III. The BDDB shall pay to Contractor for services rendered, a sum not to exceed _____, plus applicable gross receipts taxes during the one year term of this Agreement. Compensation to be paid for any renewal term shall be agreed upon by the parties.

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

C. Payment shall be made upon receipt of services completed. Compensation shall be paid only for services actually performed.

3. APPROPRIATIONS

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

4. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the BDDB's Chair and terminate no later than _____, unless terminated sooner pursuant to Article 6 below. This Agreement

shall have the option to be renewed for up to three (3) additional twelve (12) months terms for no more than four (4) years, with the mutual agreement of both parties.

5. TERMINATION

A. This Agreement may be terminated by the BDDB upon 30 days written notice to Contractor. In the event of such termination:

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

(2) If compensation is not based upon hourly rates for services rendered, the BDDB shall pay Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination, and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination.

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

A. Contractor and its agents and employees are independent contractors performing professional services for the BDDB and are not employees of the BDDB. Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of BDDB vehicles, or any other benefits afforded to employees of the BDDB 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 contractors retained by Contractor in the performance of the services under this Agreement.

C. Contractor shall comply with the 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.

7. CONFIDENTIALITY

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

8. CONFLICT OF INTEREST

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.

9. ASSIGNMENT; SUBCONTRACTING

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 BDDB. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the BDDB.

10. RELEASE

Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the BDDB, the City of Santa Fe and Santa Fe County and their officers, officials and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. If not completed at the time of final payment, Contractor shall remain obligated to complete the Scope of Services and other obligations of this Agreement. Contractor agrees not to purport to bind the BDDB to any obligation not assumed herein by the BDDB unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

11. INSURANCE

A. Contractor shall not begin the Professional Services required under this Agreement until it has: (i) obtained, and upon the BDDB's request provided to the BDDB, insurance certificates reflecting evidence of all insurance required herein; however, the BDDB reserves the right to request, and Contractor shall submit, copies of any policy upon reasonable request by the BDDB; (ii) obtained BDDB approval of each company or companies as required below; and (iii) confirmed that all policies contain the specific provisions required. Contractor's liabilities, including but not limited to Contractor's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Contractor's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of Agreement by the BDDB.

B. Further, Contractor shall not modify any policy or endorsement thereto which increases the BDDB's exposure to loss for the duration of this Agreement.

C. **Types of Insurance.** At all times during the term of this Agreement, Contractor shall maintain insurance coverage as follows:

(1) **Commercial General Liability.** Commercial General Liability (CGL) Insurance must be written on an ISO Occurrence form or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all bodily injury, personal injury or property damage providing the following minimum limits of liability.

General Annual Aggregate (other than Products/Completed Operation)	\$1,000,000
Products/Completed Operations Aggregate Limit	\$1,000,000
Personal Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000

(2) **Automobile Liability.** For all of Contractor's automobiles including owned, hired and non-owned automobiles, Contractor shall keep in full force and effect, automobile liability insurance providing coverage at least as broad for bodily injury and property damage with a combined single limit of not less than \$1 million per accident. An insurance certificate shall be submitted to the BDDDB that reflects coverage for any automobile [any auto].

(3) **Professional Liability.** For Contractor and all of Contractor's employees who are to perform professional services under this Agreement, Contractor shall keep in full force and effect, Professional Liability insurance for any professional acts, errors or omissions. Such policy shall provide a limit of not less than \$1,000,000 per claim and \$1,000,000 annual aggregate. Contractor shall ensure both that: (i) the policy retroactive

date is on or before the date of commencement of the first work performed under this Agreement; and (ii) the policy will be maintained in force for a period of three years after substantial completion of the project or termination of this Agreement whichever occurs last. If professional services rendered under this Agreement include work relating to environmental or pollution hazards, Contractors policy shall not contain exclusions for those activities.

(4) **Workers' Compensation.** For all of Contractor's employees who are subject to this Agreement and to the extent required by any applicable state or federal law, Contractor shall keep in full force and effect, a Workers' Compensation policy & Employers Liability policy. That policy shall provide Employers Liability Limits as follows:

Bodily Injury by Accident	\$500,000	Each Accident
Bodily Injury by Disease	\$500,000	Each Employee
Bodily Injury by Disease	\$500,000	Policy Limit

Contractor shall provide an endorsement that the insurer waives the right of subrogation against the BDDDB, City of Santa Fe and Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives.

D. **Cancellation.** Except as provided for under New Mexico law, all policies of insurance required hereunder must provide that the BDDDB is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies as evidence by an endorsement to the policies which shall be attached to the certificates of insurance. Cancellation provisions in insurance certificates shall not contain the qualifying words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives". In the

event Contractor's insurance carriers will not agree to this notice requirement, Contractor will provide written notice to the BDDB within four working days of Contractor's receipt of notice from its insurance carrier(s) of any cancellation, nonrenewal or material reduction of the required insurance.

E. **Insurer Requirements.** All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have rated "A-" and "V" or better by the A.M. Best Key Rating Guide, that are authorized to do business in the State of New Mexico, and that have been approved by the BDDB. The BDDB will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of New Mexico.

F. **Deductibles.** All deductibles or co-payments on any policy shall be the responsibility of Contractor.

G. **Specific Provisions Required.**

(1) Each policy shall expressly provide, and an endorsement shall be submitted to the BDDB, that the policy or policies providing coverage for Commercial General Liability must be endorsed to include as an Additional Insured, the BDDB, City of Santa Fe and Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives.

(2) All policies required herein are primary and non-contributory to any insurance that may be carried by the BDDB, City of Santa Fe and Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives, as reflected in an endorsement which shall be submitted to the BDDB.

(a) Contractor agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the BDDB's exposure to loss.

(b) Before performing any Professional Services, Contractor shall provide the BDDB with all Certificates of Insurance accompanied with all endorsements.

(c) The BDDB reserves the right, from time to time, to review Contractor's insurance coverage, limits, and deductible and self-insured retentions to determine if they are acceptable to the BDDB. The BDDB will reimburse Contractor for the cost of the additional premium for any coverage requested by the BDDB in excess of that required by this Agreement without overhead, profit, or any other markup.

(d) Contractor may obtain additional insurance not required by this Agreement.

12. INDEMNIFICATION

General Indemnification. To the greatest extent permitted by law, Contractor shall indemnify, hold harmless and defend the BDDB, City of Santa Fe and Santa Fe County and their respective elected officials, officers, employees, agents, volunteers and representatives 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 or non-performance under this Agreement as well as the performance or non-performance of Contractor's employees, agents, representatives and subcontractors or any tier.

Indemnification for Professional Acts, Errors or Omissions. Except for professional acts, error or omissions that are the result of established gross negligence or willful misconduct

on the part of Contractor, or its employees, agents, representatives or sub-consultants, the General Indemnification shall not apply to professional acts, errors or omissions unless covered by Professional Liability insurance required in this Agreement.

13. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the BDDDB in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, *et seq.*, as amended. The BDDDB 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.

14. 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 BDDDB and 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.

15. RECORDS, DOCUMENT CONTROL AND AUDIT

A. Contractor shall conform with and participate in the Document Control policies of the BDDDB or the City of Santa Fe. Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, all records that relate to the scope of services provided under this Agreement.

B. Detailed records that indicate the date, time and nature of services rendered shall also be retained for a period of three years after the term of this agreement expires. These records shall be subject to inspection by the City of Santa Fe, the Department of Finance and

Administration, the State Auditor. The BDDDB and the City of Santa Fe shall have the right to audit the billing both before and after payment to Contractor. Payment under this Agreement shall not foreclose the right of the BDDDB or the City of Santa Fe to recover excessive or illegal payments.

16. 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 BDDDB. In any action, suit or legal dispute arising from this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

17. AMENDMENT

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

18. 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.

19. 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.

20. 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.

21. NOTICES

Any notices requests, demands, waivers and other communications given as provided in this Agreement will be in writing and will be deemed to have been given if delivered in person (including by Federal Express or other personal delivery service), or mailed by certified or registered mail, postage prepaid, and addressed to Seller or Buyer at the following addresses:

BDDDB: Charles Vokes
BDD Facilities Manager
Buckman Direct Diversion
801 San Mateo
Santa Fe, NM 87504

With a copy to: Nancy R. Long, Esq.,
BDDDB Counsel
Long, Komer & Associates, P.A.
2200 Brothers Road
P. O. Box 5098
Santa Fe, NM 87502-5098

CONTRACTOR:

Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

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

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK;

SIGNATURE PAGE FOLLOWS]

BUCKMAN DIRECT DIVERSION BOARD

By: _____
Charles Vokes,
BDD Facilities Manager

Date: _____

CONTRACTOR:

By: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO FORM:



Nancy R. Long / BDDDB Counsel

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

APPROVED:

City Finance Director

Business Unit/Line Item

ATTEST:

Yolanda Y. Vigil, City Clerk
File Date: _____