CITY OF SANTA FE
SANTA FE SOLID WASTE MANAGEMENT AGENCY

"REQUEST FOR PROPOSALS"

ON-CALL ENGINEERING SERVICES

for the

SANTA FE SOLID WASTE MANAGEMENT AGENCY

RFP No. '16/35/P

PROPOSAL DUE:

May 6, 2016
2:00 P.M.
PURCHASING OFFICE
CITY OF SANTA FE
2651 SIRINGO ROAD, BLDG. H
SANTA FE, NEW MEXICO 87505

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NOTICE OF REQUEST FOR PROPOSALS

RFP No. '16/35/P

Competitive sealed proposals will be received by the City of Santa Fe Purchasing Office, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505 until **2:00 P.M. local prevailing time on Friday, May 6, 2016.** Any proposal received after this deadline will not be considered. This proposal is for the purpose of procuring professional consulting services for the following:

ON-CALL ENGINEERING SERVICES

for the

SANTA FE SOLID WASTE MANAGEMENT AGENCY

A **mandatory** pre-proposal meeting will be held at 11:00 a.m. MDT, April 20, 2016, at the Nancy Rodriguez Community Center in the Traditional Village of Agua Fria, 1 Prairie Dog Loop, Santa Fe, NM 87507. Failure of an Offeror to be present for the entire meeting shall render the Offeror to be deemed nonresponsive and their proposal shall not be considered. It is the Offeror's responsibility to determine who attends and represents the Offeror or related firm. One person cannot represent more than one Offeror.

Representatives of the Santa Fe Solid Waste Management Agency ("the Agency") will be available at the pre-proposal meeting to answer questions to the extent possible and explain the intent of this RFP. The Agency may prepare a written addendum in response to questions raised at the meeting to all prospective Offerors who were in attendance at the meeting. It is the sole responsibility of each Offeror to verify that he/she has received all addendums issued before delivering their proposal to the Agency. Acknowledgement of Addendums shall be submitted with any proposal.

Offerors may participate in an optional tour of the Caja del Rio Landfill (Landfill) and the Buckman Road Recycling and Transfer Station (BuRRT) on April 20, 2016. The tour will begin 1:30 p.m. (local prevailing time) at the Landfill administration office at 149 Wildlife Way, Santa Fe, NM.

The RFP process will include Qualifications-Based Selection – a procurement method that results in the selection of the best qualified and competent professional firm most suitable to the needs of the Santa Fe Solid Waste Management Agency (Agency).

The Offerors' 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 services shall apply to the proposal throughout, and they will be deemed to be included in the proposal document the same as though herein written out in full.

The Agency 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 Offeror will be required to conform to the Equal Opportunity Employment regulations.

Proposals may be held for ninety (90) days subject to action by the Agency. The Agency reserves the right to reject any or all proposals in part or in whole. RFP packets are available by contacting: Shirley Rodriguez, City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505. Telephone number is (505) 955-5711. Questions related to this RFP can be directed to Randall

Kippenbrock, P.E., Santa Fe Solid Waste Management Agency, 149 Wildlife Way, Santa Fe, NM 87506. Telephone number is (505) 424-1850, ext. 100. The RFP is available at http://www.santafenm.gov/bids.aspx.

Robert Rodarte, Purchasing Officer

Received by the Santa Fe New Mexican newspaper on: March 24, 2016
To be published on: April 6, 2016

Received by the Albuquerque Journal newspaper on: March 24, 2016
To be published on: April 6, 2016

PROPOSAL SCHEDULE

This section of the RFP contains the proposal schedule for the procurement, describes the major procurement events and the conditions governing the procurement. The dates of the major procurement events considered by the Agency and Joint Powers Board are tentative and subject to change without notice.

	EVENT	DATE
1.	Advertisement	April 6, 2016
2.	Issuance of RFP:	April 6, 2016
3.	Mandatory Pre-Proposal Meeting:	April 20, 2016 at 11:00 a.m. Local Prevailing Time
3.	Optional Tour:	April 20, 2016 at 1:30 p.m. Local Prevailing Time
4.	Acknowledgement of Receipt	April 20, 2016
5.	Deadline to Submit Additional Questions	May 1, 2016 at 2:00 p.m. Local Prevailing Time
6.	Response to Written Questions and any RFP Addendum	May 3, 2016
7.	Receipt of Proposals:	May 6, 2016 at 2:00 p.m. Local Prevailing Time City of Santa Fe Purchasing Office 2651 Siringo Road, Bldg. H Santa Fe, New Mexico 87505
8.	Evaluation of Proposals:	May 13, 2016
9.	Interviews:	May 20, 2016
10.	Selection:	May 20, 2016
11.	Negotiations:	June 3, 2016
12.	Recommendation of Award to Joint Powers Board:	June 16, 2016

INFORMATION FOR OFFERORS

1. RECEIPT OF PROPOSALS

The Santa Fe Solid Waste Management Agency invites Offeror(s) to submit one original and six (6) copies of their proposal. Proposals will be received by the Purchasing Office, until 2:00 p.m. local prevailing time, May 6, 2016.

The packets shall be submitted in a sealed container and addressed to the City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505. No late proposals will be accepted whether hand delivered, mailed or special delivery. Do not rely on "overnight delivery" without including some lead-time, as late-delivered packages will be determined to be non-responsive, 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 sealed container should clearly indicate the following information:

Proposal number: '16/35/P

Title of the proposal: On-Call Engineering Services for the Santa Fe Solid Waste Management Agency.

Name and address of the Offeror:

Any proposal received after the time and date specified shall not be considered. No proposing offeror may withdraw a proposal within 90 days after the actual date of the opening thereof.

2. COPIES OF REQUEST OF PROPOSALS

A complete set of the RFP may be obtained from the City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505. A complete set of the RFP shall be used in preparing proposals. The Agency assumes no responsibility for errors or misinterpretations resulting from the use of an incomplete RFP. The Agency in making copies of RFP does so only for the purpose of obtaining proposals for this project and does not confer a license or grant for any other use. A copy of the RFP is available for public inspection at the Administration Building of the Agency, 149 Wildlife Way, Santa Fe, NM. The RFP is available at http://www.santafenm.gov/bids.aspx.

3. ACKNOWLEDGEMENT OF RECEIPT

Potential Offerors shall hand deliver or return by facsimile or by registered or certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document (See Appendix A) to have their firm placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on April 20, 2016.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's firm name shall not appear on the distribution list.

4. PREPARATION OF PROPOSAL

Offerors shall comply with all instructions and provide all the information requested. Failure to do so may disqualify your proposal. All information shall be given in ink or typewritten. Any corrections shall be initialed in ink by the person signing the proposal.

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

This RFP may be canceled or any and all proposals may be rejected in whole or in part whenever the Agency determines it is in the best interest of the Agency to do so.

5. CORRECTION OR WITHDRAWAL OF PROPOSALS

A proposal containing a mistake discovered before proposal opening may be modified or withdrawn by the Offeror prior to the time set for proposal opening by delivering written or telegraphic notice to the location designated in the RFP as the place where proposals are to be received. Withdrawn proposals may be resubmitted up to the time and date designated for the receipt of proposals, provided they are then fully in conformance with the RFP.

6. INTERPRETATIONS AND ADDENDA

No oral interpretation of the meaning of any section of the proposal documents will be binding. Oral communications are permitted in order to make an assessment of the need for an addendum. Any questions concerning the proposal must be addressed prior to the date set for receipt of proposal.

Every request for such interpretations should be in writing addressed to, Purchasing Officer, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico, 87505 and to be given consideration must be received at least five (5) days prior to the date set for the receiving of proposals or May 1, 2016.

Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the RFP, which if issued, will be sent by facsimile, e-mail, or hand delivered to all Offerors who are known by the Agency to have received a complete RFP not later than three days prior to the date fixed for the receipt of the proposals or May 3, 2016. Failure of any Offeror to receive any such addenda or interpretations shall not relieve Offeror from any obligation under their proposal as submitted. All addenda so issued shall become part of the contract documents.

Copies of addenda may be obtained from the City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505.

The Agency reserves the right not to comply with these time frames mentioned above if an addendum is required to extend the proposal deadline or withdraw the RFP due to significant justification(s) that are in the best interest of the Agency.

7. LAWS AND REGULATIONS

The Offeror'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 the subject of this RFP shall apply to the contract throughout. They will be deemed to be included in the contract the same as though written out in full.

8. DISCLOSURE OF PROPOSAL CONTENTS

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Purchasing Officer will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, Sections 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Purchasing Officer shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. PROPOSAL EVALUATION

After the Evaluation Committee completes its review of proposals, the committee may interview up to three highest rated Offerors, or may forgo the interviews and select one Offeror, or recommend to the Agency to reject any or all proposals.

At its discretion the Agency reserves the right to alter the membership or size of the Evaluation Committee. The Agency also reserves the right to change the number of offerors interviewed.

10. FINALIZE CONTRACT

The contract will be finalized with the most advantageous Offeror. In the event that mutually agreeable terms cannot be reached within the time specified, The Agency reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process.

11. CONTRACT AWARD

The Agency anticipates awarding the contract during the regular scheduled Joint Powers Board meeting on June 16, 2016; however, the date of the meeting is tentative and subject to change without notice.

The contract shall be awarded to the Offeror whose proposal is most advantageous to the Agency, taking into consideration the evaluation factors set forth in the RFP.

12. REJECTION OR CANCELLATION OF PROPOSALS

The RFP may be canceled, or any or all proposals may be rejected in whole or in part, when it is in the best interest of the Agency. A determination containing the reasons therefore shall be made part of the project file (Section 13-1-131 NMSA).

13. PROTESTS AND RESOLUTIONS PROCEDURES

Any Offeror who is aggrieved in connection with the RFP process may protest to the Purchasing Officer. The protest must be in writing and submitted within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest, but may not be filed later than seven (7) days after the Joint Powers Board approves award of the contract. Requirements regarding protests and resolution of protests are available upon request from the Purchasing Office.

14. CHANGE IN CONTRACTOR REPRESENTATIVES

The Agency reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the Agency, meeting its needs adequately.

15. AGENCY RIGHTS

The Agency reserves the right to accept all or a portion of an Offeror's proposal.

16. RIGHT TO PUBLISH

Throughout the duration of this procurement process and contract term, potential Offerors and contractors must secure from the Agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the contract.

17. OWNERSHIP OF PROPOSALS

All documents submitted in response to this Request for Proposals shall become the property of the Agency. However, any technical or user documentation submitted with the proposals of non-selected Offerors shall be returned after the expiration of the protest period.

18. ELECTRONIC MAIL ADDRESS REQUIRED

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive correspondence.

19. COMPLIANCE WITH THE CITY OF SANTA FE AND SANTA FE COUNTY'S MINIMUM WAGE RATE ORDINANCES (LIVING WAGE ORDINANCES)

Copies of the City of Santa Fe Living Wage Ordinance (§28.1 28-1.12 SFCC 1987) and Santa Fe County Living Wage Ordinance (2014-1 and amendment 2014-5) are attached (Appendix C). The Offeror will be required to submit the proposal such that it complies with the ordinances to the extent applicable. The recommended Offeror will be required to comply with the ordinances to the extent applicable, as well as any subsequent changes to the Ordinances throughout the term of this contract.

20. PREFERENCES IN PROCUREMENT

New Mexico In-State Preference: To receive a resident business preference pursuant to Section 13-1-21 NMSA 1978 a business shall submit with a copy of a valid resident business certificate issued by the NM Department of Taxation and Revenue.

If an Offeror submits with its proposal a copy of a valid and current in-state resident business certificate, 5% of the total weight of all evaluation factors used in the evaluation of proposals may be awarded.

Certification by the NM Department of Taxation and Revenue for the resident business takes into consideration such activities as the business or contractor's payment of property taxes or rent in the state.

or

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 attached hereto as Appendix D.

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 resident business preference is not cumulative with the resident veteran business preference.

Santa Fe Local Preference: An offeror who submits to the Agency a valid Local Preference Certification Form, pursuant to the City of Santa Fe Purchasing Manual, or a Santa Fe County Preference Certificate, issued by Santa Fe County, shall receive a 5% preference as set forth in Santa Fe County Ordinance No. 2012-4. The local preference applies only to offers received when the Agency procures services through a competitive sealed proposal process. An offeror is eligible for the local preference in addition to either the in-state preference or the resident veteran preference.

DEFINITIONS AND TERMS

1. **Addendum**: a written or graphic instrument issued prior to the opening of Proposals, which clarifies, corrects, or changes the Request for Proposals. Plural: addenda.

2. **Agency**: means the Santa Fe Solid Waste Management Agency.

3. **BuRRT**: means the Buckman Road Recycling and Transfer Station.

4. **Consultant or Contractor**: means the successful Offeror who enters into a binding contract / agreement.

5. **Contract / Agreement:** means The Agency's Professional Service Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments in accordance with its terms, as attached in the RFP as Appendix E.

6. **Determination**: means the written documentation of a decision of the purchasing officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains (Section 13-1-52 NMSA 1978).

7. **Evaluation Committee**: means a body appointed by the Agency to perform the evaluation of proposals.

8. **Finalist**: is defined as an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation criteria is sufficiently high to merit further consideration by the Evaluation Committee.

9. **Joint Powers Board (JPB)**: means the governing body for the Santa Fe Solid Waste Management Agency that operates the Landfill and the Buckman Road Recycling and Transfer Station (BuRRT).

10. **Landfill**: means Caja del Rio Landfill.

11. **Offeror**: means the companies or firms submitting a proposal in response to this Request for Proposals.

12. **Purchasing Office**: means the City of Santa Fe Purchasing Office.

13. **Purchasing Officer**: means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of proposals.

14. **Request for Proposals**: or "RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals (Section 13-1-81 NMSA 1978).

15. **Responsible Offeror of Proposer**: means an offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that the proposer's financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in the proposal (Section 13-1-83 NMSA 1978).

16. **Responsive Offer or Proposal**: means an offer or proposal that conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements (Section 13-1-85 NMSA 1978).

17. The terms **must, shall, will, is required, or are required**, identify a mandatory item or factor that will result in the rejection of the offeror's proposal.

18. The terms **can, may, should, preferably, or prefers** identify a desirable or discretionary item or factor.

SPECIAL CONDITIONS

1. GENERAL

When the City's Purchasing Officer issues a purchase order document in response to the Contractor's proposal, a binding contract is created.

2. ASSIGNMENT

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

3. VARIATION IN SCOPE OF WORK

No increase in the scope of work, services or equipment after award will be accepted, unless means were provided for the increase within the contract documents. Decreases in the scope of work, services or equipment can be made upon request by the Agency or if such variation has been caused by documented conditions beyond the Contractor's control, and then only to the extent provided for 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 thirty (30) days of satisfactory receipt of goods or services. The Agency shall make the final determination of satisfactory receipt of goods or services.

5. TAXES

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

6. INVOICING

(A) The Contractor'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 **Santa Fe Solid Waste Management Agency, 149 Wildlife Way, Santa Fe, NM 87506** and not the City of Santa Fe.

7. METHOD OF PAYMENT

Every effort will be made to process payments within thirty (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 Agency reserves the right to cancel all or any part of this order without cost to the Agency if the Contractor fails to meet the provisions for this order, and except as otherwise provided herein, to hold the Contractor liable for any excess cost incurred by the Agency due to the Contractor's default. The Contractor shall not be liable for any excess cost if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor and these causes have been made known to the Agency in written form within five working days of the Contractor 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 Agency 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 Contractor to meet the required delivery schedule. The rights and remedies of the Agency 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 bid or proposal, the Contractor agrees to comply with Presidential Executive Order No. 11246 as amended.

10. NON-COLLUSION

In signing this bid or proposal, the Contractor certifies it has not, either directly or indirectly, entered into action in restraint of full competition in connection with this bid or proposal submittal to the Agency.

11. BRIBES, GRATUITIES AND KICKBACKS

In signing this bid or proposal, the Contractor acknowledges that, as required by Section 13-1-191 NMSA 1978, reference is hereby made to the criminal laws of New Mexico (including Sections 30-14-1, 30-24-2 and 30-41-1 through 30-41-3 NMSA 1978) which prohibits bribes, kickbacks and gratuities, violation of which constitutes a felony. Further, Sections 13-1-28 through 13-1-199 NMSA 1978 imposes civil and criminal penalties for its violation.

12. INSURANCE REQUIREMENTS

Insurance is required of the Contractor in the limits identified in the Sample Services Agreement, Section 12, attached as Appendix E.

BACKGROUND

The Agency is a public entity that is jointly owned by the City of Santa Fe and Santa Fe County under the terms of the New Mexico Joint Powers Agreements Act. Since 1995, the Agreement delegated the Agency the power to plan for, operate, construct, maintain, repair, replace or expand the Caja del Rio Landfill (Landfill) located at 149 Wildlife Way, Santa Fe, NM 87506. In 2006, the Agency took over operation of the Buckman Road Recycling and Transfer Station (BuRRT). The Agency is looking to award a contract for on-call engineering services to support operations at the Landfill and BuRRT. Below is a summary of each of the facilities, including material and quantities handled is described below:

Caja del Rio Landfill (Landfill):

The Agency operates the Landfill under the New Mexico Environmental Department (NMED) solid waste permit number SWM-261708. The Landfill is permitted to accept municipal solid waste; construction and demolition (C&D) debris; and special wastes limited to: sludge, industrial solid waste, petroleum contaminated soil, spill of chemical substance or commercial product, treated formerly characteristic hazardous waste, and special waste not otherwise specified (wash sump). The Landfill supports self-dumping haulers (e.g., packer truck, dump trucks, roll-offs). Since 2003, mulch (from BuRRT) was utilized for landfill slope stability (erosion control). In late 2015, the Agency entered into a third party agreement for re-establishing the composting operation. Thus, the Agency began to haul mulch material to the Landfill (from BuRRT) in preparation for the re-initiation of the composting operation.

The estimated annual tonnages received at the Landfill over the last five years are as follows:

Year	MSW Tonnage[1]
2011	152,200
2012	150,300
2013	149,600
2014	150,700
2015	152,800

[1] Estimated tonnage, including MSW and C&D debris

Buckman Road Recycling and Transfer Station (BuRRT):

On May 8, 1996, the New Mexico Environment Department (NMED) issued the City of Santa Fe a 20-year solid waste facility permit (SWM-261717) for the Buckman Road Recycling and Transfer Station (BuRRT), which was formerly referred to as the City of Santa Fe Solid Waste Transfer Facility during the original permitting process. On January 1, 2006, the Agency took over as the operator of BuRRT. However, the City of Santa Fe remains the Owner of the facility.

Since early 2000, the BuRRT programs have included glass recycling (crushing) and a green waste mulching program. In February 2007, the BuRRT facility incorporated a material recovery facility (MRF) within the original footprint of the existing transfer station which operates as a stand-alone process. A new baling facility was constructed on the west side of the transfer station building at the time the MRF was constructed. In September 2012, the operation expanded further to include a separate household hazardous waste (HHW) collection building and program.

The BuRRT accepts from self-haulers and residents municipal solid waste (MSW), construction and demolition debris, residential and commercial recycling (including cardboard, chip board, paper, plastic, aluminum, tin, books, shredded paper, glass, and scrap metal), household hazardous waste (HHW)

(including florescent bulb crushing and e-waste), green waste, and scrap tires. Special waste is not approved for acceptance at BuRRT.

The estimated annual processed tonnages at BuRRT over the last five years are as follows:

Year	MSW Tonnage[2]	Recycling Tonnage[3]
2011	20,200	14,600
2012	18,500	14,500
2013	16,900	15,300
2014	20,000	16,000
2015	21,000	18,800

[2] Estimated tonnage, including MSW and C&D debris.

[3] Estimated tonnage, including mixed recycling, green waste, scrap tires, green waste, motor oil, HHW, scrap metal, and e-waste.

SCOPE OF SERVICES

The projects performed under this contract may include, but not be limited to, the following types of services. This scope of services is intended to represent the types of projects that may arise during the term of the contract; however, not all of these services may be required of the Offeror during the contract term. The Offeror may supplement their in-house capability through teaming arrangements.

The Offeror must have solid working knowledge of New Mexico Solid Waste Act (NMSA 1978 Section 74-9-1 through 74-9-43) and the Solid Waste Management Rules (20.9.2 through 20.9.10 NMAC) which governs the management of municipal solid waste in New Mexico. The Offeror may be required to provide the following types of municipal solid waste services:

- Design and prepare construction plans and specifications for landfill facility components: such as landfill cells and leachate collection systems for Cell 6B and Cell 7, storm water management structures, and erosion control structures. Offeror may also be required to perform oversight of construction of such components.
- Design and preparation of construction plans and specifications for BuRRT facility components; such as building roof rehabilitation, relining of the wetland and evaporation ponds, water supply line replacement, water misting system, glass crushing facility upgrade, concrete scrap tire containment areas, scale replacement, green waste area grading plans. Offeror may also be required to perform oversight of construction of such components.
- Perform topographical surveys for the Landfill and BuRRT, as required, including potential landfill volume analyses and consolidating various survey data to a universally recognized datum (e.g., NAD 83, NAVD 88). Periodic ground and/or aerial photography may also be requested. The Agency may investigate the use of drone technology to obtain topographical information or aerial photography.
- Operational support; such as modifying or expanding model data used for the Trimble GPS control equipment (currently utilized by the compactor to maximize compaction at the Landfill), guidance during excavation of Cell 7, and assistance with building in access roads.
- Prepare and submit permit related documents for approval by the New Mexico Environment Department, Solid Waste Bureau.
- Prepare and/or update facility specific storm water pollution prevention plans (SWPPP) and spill prevention, control and countermeasure (SPCC) plan, as regulations dictate, for municipal solid waste facilities and/or conduct storm water quality monitoring activities at either the Landfill or BuRRT.
- Prepare, design, and/or implement corrective action programs related to operational and/or remedial issues, if any arise. No current issues at this time.
- Conduct feasibility studies or strategic planning activity documents.
- Perform technical services related to waste minimization, recycling, waste-to-energy, and other renewable energy systems.

PROPOSAL SUBMITTAL REQUIREMENTS

Offerors shall submit one original and six (6) copies of their proposals to the City of Santa Fe, Purchasing Office, 2651 Siringo Road, Bldg. H, Santa Fe, New Mexico 87505 by 2:00 p.m. local prevailing time on May 6, 2016. Any proposal received after this deadline will not be considered.

All proposals must be typewritten on standard 8 1/2" x 11" paper and bound on the left-hand margin and placed within a binder with tabs delineating each section. Larger paper is permissible for charts, spreadsheets, etc.

Although there is no maximum proposal length, proposals should be kept to the minimum length necessary to address the requirements of the RFP. Padding the proposal with "boiler plate" material is strongly discouraged.

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated:

1) Letter of Transmittal
2) General Information
3) Project Team Members
4) Specialized Design and Technical Experience
5) Capacity and Capability to Perform the Work
6) Past Record of Performance
7) Proximity to or Familiarity with the Agency
8) New Mexico Produced Work
9) Current Volume of Work with the Agency not 75% Complete
10) Innovativeness
11) Other Supporting or Resource Material.

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

Any proposal that does not adhere to this format, and which does not address each specification and requirement within the RFP may be deemed non-responsive and rejected on that basis.

Additional proposal contents:

- Offeror identification and transmittal letter from Offeror with authorized signature. Include company name and address; name and telephone number of contact person.

- Acknowledge receipt of any and all amendments to this RFP.

- Provide the following for each sub-consultant (if needed):
    - Name, address, and telephone number.
    - State the qualifications.
    - Describe the role of the sub-consultant in the project.

- The technical approach section includes a summary of the proposed approach to this project, and the advantages/disadvantages of the approach. Also, discuss any important issues the Offeror has identified after the review of the scope of services provided within this RFP.

- Copy of Santa Fe County Business License.
- Copy of State of New Mexico CRS Tax Identification Number.
- Summary of insurance/liability coverage.
- Campaign Contribution Disclosure Form (Appendix B).
- Resident Veterans Preference Certification (Appendix D), if applicable.
- Copy of New Mexico In-State Preference Certification issued by the NM Department of Taxation and Revenue, if applicable.

The Offeror is specifically advised that any person or other party to whom it is proposed to award a subcontract under this proposal must be accepted by the Agency. No subcontractor with a suspension or debarment will be accepted by the Agency. The Offeror shall be wholly responsible for the entire performance whether or not sub-consultants are used.

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.

EVALUATION CRITERIA & WEIGHTED VALUES
EVALUATION COMMITTEE MEMBERS
RFP No. '16/35/P

At its discretion and without notice, the Agency reserves the right to alter the membership and size of the evaluation committee. The evaluation committee will provide written evaluations based on the evaluation criteria and weighted values shown below. The evaluation points scored will be totaled to determine the top rated offerors. Interviews may be conducted with the offerors receiving the top three scores in the written evaluations and their interviews will be evaluated. Unless noted elsewhere in this RFP, the same evaluation criteria and weighted values shown below will be used to conduct the interview evaluations. The scores from the interview evaluations will be totaled to determine the top rated offeror unless extenuating circumstances are documented. Evaluation criteria designated with "*****" are required by Section 13-1-120.B NMSA 1978.

EVALUATION CRITERIA	POINTS AVAILABLE
1. Specialized Design and Technical Experience*****	200
2. Capacity and Capability*****	200
3. Past Record of Performance*****	200
4. Proximity to or Familiarity with the Agency*****	200
5. New Mexico Produced Work*****	100
6. Current Volume of Work with the Agency not 75% Complete*****	50
7. Innovativeness of Proposal	50
Total Maximum Allowable Points	**1,000**

NARRATIVE DESCRIPTION OF EVALUATION CRITIERIA

Points will be awarded on the basis of the following evaluation criteria as they relate to solid waste, recycling, landfills, transfer stations and/or material recovery facilities:

1. Specialized Design and Technical Experience - Provide information about the Offeror's specific technical experience with similar projects that demonstrate competence to successfully complete the project and type of services required.

2. Capacity and Capability - Provide information about the business that demonstrates the ability to provide sufficient professional competence, including any consultants, their representatives, qualifications and locations, to perform the work, including any specialized services with time limitations.

3. Past Record of Performance - Demonstrate through contracts and other agreements with government agencies or private industry with respect to such factors as costs control, quality of work and ability to meet schedules. Provide a minimum of three (3) clients/vendors where the Offeror provided similar professional engineering services as described in the potential scope of services provided. Provide the project title, description of work performed, owner point of contact, and telephone number.

4. Proximity to or Familiarity with the Agency - Demonstrate the Offeror's familiarity with the Agency at which the project is located and describe any issues or problems that may arise that could affect the work.

5. New Mexico Produced Work - It is in the Agency's best interest to support in-state businesses. Indicate the volume of work to be produced in New Mexico by a New Mexico offeror or offerors. Identify any out-of-state consultant(s) or business relationships that will be involved on the project and the extent of services to be provided by that Offeror or Offerors.

6. Current Volume of Work with the Agency not 75% Complete - Indicate the volume of work the Offeror has previously done for the Agency which is not seventy-five (75) percent complete with respect to basic professional design services through the bidding phase. The purpose of the criteria is to help distribute projects among qualified offerors while not violating the principal of selecting the most highly qualified offeror.

   The Agency is considered a separate entity from the City of Santa Fe and Santa Fe County. Therefore, any work performed for the City and County of Santa Fe should not be included in the proposals. However, for clarification the City of Santa Fe is the Agency's fiscal agent.

   The following formula shall be utilized in assessing scores which is based on the value of work for projects that are not 75% complete:

$150,001	and	over	0 points
$100,001	to	$150,000	20 points
$ 50,001	to	$100,000	40 points
$ 25,001	to	$ 50,000	60 points
$ 1	to	$ 25,000	80 points
		None	100 points

7. Innovativeness of the Proposal - Describe in detail the innovativeness of the Offeror's proposal that will provide maximum benefits for the Agency while maintaining cost-effective services for the Agency.

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer.

EVALUATION CRITERIA & WEIGHTED VALUES
for
RFP No. '16/35/P

Evaluation Points:

Criteria	**Weighted Value**	**Evaluation Pts. 1-2-3-4-5 6-7-8-9-10**	**Total**	**Max Score**
Specialized Design & Technical Experience*****	20%	_____	_____	200
Capacity & Capability*****	20%	_____	_____	200
Past Record of Performance*****	20%	_____	_____	200
Proximity to and Familiarity with the Agency*	20%	_____	_____	200
New Mexico Produced Work*	10%	_____	_____	100
Current Volume of Work with the Agency not 75% Complete*****	5%	_____	_____	50
Innovativeness of Proposal	5%	_____	_____	50
	Total		_____	**1,000**

The Agency reserves the option to contact further references at its discretion, the results of which may be reflected in the above evaluation.

_____
Company Name

Evaluation: _____ Interview: _____ (Please mark appropriate field)

_____ _____
Signature and title of evaluator Date

APPENDIX A

Acknowledgement of Receipt Form

ACKNOWLEDGEMENT OF RECEIPT FORM

for

RFP No. '16/35/P

ON-CALL ENGINEERING SERVICES

for the

SANTA FE SOLID WASTE MANAGEMENT AGENCY

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Appendix E.

The acknowledgement of receipt should be signed and returned to the Purchasing Officer no later than the close of business on April 20, 2016. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and The Agency's written responses to those questions as well as RFP amendments, if any are issued.

OFFEROR: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Proposal.

Offeror does/does not (**circle one**) intend to respond to this Request for Proposals.

City of Santa Fe Purchasing Office
2651 Siringo Road, Bldg. H
Santa Fe, NM 87505

APPENDIX B

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 proces**s" 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.

Names of Applicable Public Official: Board Members of the Santa Fe Solid Waste Management Agency's Joint Powers Board - Santa Fe City Councilors Joseph Maestas Mike Harris and Rene Villarreal; Santa Fe County Commissioners Miguel Chavez, Kathy Holian, and Henry Roybal.

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

_____
Title (position)

APPENDIX C

Living Wage Ordinance

SANTA FE COUNTY

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

ORDINANCE NO. 2014-1

AN ORDINANCE ESTABLISHING A LIVING WAGE WITHIN SANTA FE COUNTY; SPECIFYING EMPLOYERS SUBJECT TO THE LIVING WAGE; MAKING FINDINGS AS TO THE NECESSITY OF A LIVING WAGE; ESTABLISHING A PROHIBITION ON RETALIATION FOR REPORTING VIOLATIONS OF THE LIVING WAGE; PROVIDING FOR REMEDIES AND PENALTIES; SPECIFYING ENFORCEMENT OFFICERS; PROVIDING THE PROCESS TO BE EMPLOYED UPON COMPLAINTS OF VIOLATION; ESTABLISHING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

SECTION 1 – AUTHORITY.

This Ordinance is enacted pursuant to its general police powers and the authority in NMSA 1978, § 4-37-1 (1975) (as amended) to make and publish any ordinance to discharge the powers not inconsistent with statutory or constitutional limitations placed on counties and to exercise powers that are necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the County's inhabitants, and NMSA 1978, § 4-37-3 (1993) (as amended) which permits prosecution of violations of County ordinances in any court of competent jurisdiction.

SECTION 2 – DEFINITIONS.

A. "Apprentice" means a person bound to serve another for a specified time in order to learn some art, trade, profession, or business;

B. "Base wage" means the minimum hourly rate of compensation that an employee who customarily and regularly receives more than thirty dollars ($30.00) a month in tips shall be paid pursuant to this Ordinance;

C. "Commission" means a payment based on a percentage of the value of sales or other business done;

D. "Living wage" means the minimum hourly rate of compensation that an employee shall be paid; and

E. "Tip" means a gratuity earned by an employee for providing good service.

SECTION 3 – APPLICABILITY.

2014 02/25 RECORDED COUNTY CLERK

A. This Ordinance shall be effective within the exterior unincorporated boundaries of Santa Fe County.

B. Santa Fe County government shall pay the living wage established by Section 5 of this Ordinance to its employees. However, the provisions of this sub-section are expressly limited by and subject to collective bargaining agreements between Santa Fe County and any bargaining unit.

C. As of the effective date of this Ordinance, contracts entered into by Santa Fe County government for services, including construction services, shall require the contractor to pay the living wage established by this Ordinance.

D. Businesses who undertake an economic development project and execute a project participation agreement with Santa Fe County shall pay the living wage established by this Ordinance for the duration of the project.

E. Businesses required by Santa Fe County Ordinance to have a business license from Santa Fe County shall pay the living wage established by this Ordinance.

F. For purposes of identifying who shall be paid the living wage established by this Ordinance, all individuals employed by or providing work to an employer identified in subsections A through E above, whether on a part-time, full-time or temporary basis, shall be considered to be an employee for purposes of this Ordinance. Also considered an employee for purposes of this Ordinance are contingent or contracted workers, and persons working through a temporary service, staffing or employment agency or similar entity. However, the following shall not be considered employees entitled to the living wage established by this Ordinance:

(1) An individual employed by the United States, the State or any political subdivision of the State other than Santa Fe County;

(2) An individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis;

(3) Apprentices in a registered apprentice program recognized by the State of New Mexico Apprenticeship and Training Committee or the Federal Bureau of Apprenticeship and Training, as well as any apprentice participating in an apprenticeship program providing significant instructional and practical experience and offered by a 501C(3).

(4) G.I. bill trainees during training;

(5) Temporary employees of an educational, charitable or religious youth camp or retreat where room and board is provided to the employee, or if a day camp, where board only is provided. To qualify under this exemption the employer must hold a valid certificate issued

SFC CLERK RECORDED 02/25/2014

annually by the director of the labor relations division of the workforce solutions department of the State of New Mexico pertaining to exemption of seasonal employees;

(6) Any employee that is the parent, spouse, child or other member of the employer's immediate family; for purposes of this subsection, the employer shall include the principal stockholder of a family corporation;

(7) Interns working for a business for academic credit in connection with a course of study at an accredited school, college or university; and

(8) Persons working for a business in connection with a court-ordered community service program.

SECTION 4 – FINDINGS.

A. The Board of County Commissioners (hereinafter referred to as "the Board") finds that the public welfare, health, safety and prosperity of citizens of Santa Fe County requires that citizens be paid a living wage sufficient to ensure a decent and healthy life;

B. The Board finds that establishing a mandatory minimum hourly wage will promote the public welfare, health, safety and prosperity by ensuring that citizens can better support and care for their families through their own efforts;

C. According to the United States Census Bureau:

(1) The average earnings per capita in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) above the national average; and

(2) Fifteen and six-tenths percent (15.6%) of residents in Santa Fe County lived below the poverty level between 2007 and 2011;

D. The Board finds that housing costs in Santa Fe County are higher than in most other parts of New Mexico, and low income workers spend a disproportionate percentage of their income sheltering themselves and their families;

E. The Board finds that when businesses do not pay adequate wages, the community bears the cost in the form of increased demand for taxpayer-funded social services;

F. Santa Fe County developed an affordable housing program that requires developers to include affordable homes in each subdivision, down payment assistance, assistance with roof repairs and other housing-related benefits;

G. The Board finds that it has expended public funds to provide summer programs for children residing in the County and to fund medical care for indigent residents; and

12/23/2014 RECORDED SANTA FE COUNTY

H. The Board finds that it is in the public interest to require that employers benefiting from the opportunity to do business in Santa Fe County pay employees a living wage that is adequate to meet the basic needs of living in Santa Fe County.

SECTION 5 – LIVING WAGE PAYMENT REQUIREMENTS.

A. Except as provided in subsection B, the living wage paid to an employee shall be ten dollars and sixty-six cents ($10.66) per hour. Beginning March 1, 2015, and each year thereafter, the living 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. Santa Fe County shall post the living wage established by this Ordinance on the Santa Fe County website after this Ordinance becomes effective and prior to each adjustment of the living wage.

B. An employee who customarily and regularly receives more than thirty dollars ($30.00) a month in tips and/or commissions shall be paid at least a base wage equivalent to sixty percent of the living wage established by this Ordinance. Initially the base wage rate shall be six dollars and forty cents ($6.40). That wage will increase simultaneous with each living wage increase. The employer may consider tips and commissions as part of wages, but the tips and commissions combined with the employer's payment of wages to the employee shall not equal less than the living wage as provided in subsection A of this section. In the event an employee earns insufficient tips and/or commissions combined with the base wage to receive a wage at least equal to the living wage established by this Ordinance, the employer shall make up the difference to ensure the employee receives a wage equal to the living wage established by this Ordinance. All tips received by such employee shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among employees. Where employees practice tip pooling or splitting (as where staff give a portion of their tips to bus persons), only the amount actually retained by each employee shall be considered part of that employee's wages.

SECTION 6 - PROHIBITION AGAINST RETALIATION AND CIRCUMVENTION.

It shall be unlawful for any employer or employer's agent or representative to discharge, demote, deny promotion to or in any way discriminate against an employee in the terms or conditions of employment in retaliation for the person asserting a claim or right pursuant to this Ordinance or assisting another person to do so.

SECTION 7 – REMEDIES AND PENALTIES.

A. A person violating this Ordinance shall be guilty of a misdemeanor and, upon conviction, may be punished in accordance with NMSA 1978, Section 4-37-3 (1975)(as amended). 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 as to which any such violation has occurred. This Ordinance may be enforced by a duly authorized code enforcement officer.

FILED/RECORDED SANTA FE COUNTY CLERK

B. The County, any individual aggrieved by a violation of this Ordinance, or any entity whose members 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, an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

C. The remedies provided in this Ordinance are not exclusive, and nothing in this Ordinance shall preclude any person from seeking any other remedies, penalties, or relief provided by law.

SECTION 8 – PROSPECTIVE APPLICATION.

Nothing in this Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an *ex post facto* law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, §19.

SECTION 9 – SEVERABILITY.

The requirements and provisions of this Ordinance are severable. In the event that any requirement, provision, part, subpart or clause of this Ordinance, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the Board that the remainder of the Ordinance be enforced to the maximum extent possible consistent with the objective of ensuring a living wage.

SECTION 10 – NOTICE POSTING.

Any holder of a Santa Fe County business license shall, as a condition of obtaining or holding a Santa Fe County business license, post and display in a prominent location next to its business license a notice, in English and Spanish, that the business is in compliance with the provisions of this Ordinance and shall include the text of Sections 3 and 5 of this Ordinance. Failure to comply with this Section shall be construed as a violation of this Ordinance and, in addition, shall be considered grounds for suspension, revocation, or termination of the business license.

SECTION 11 – PROCEDURE.

Violations of this Ordinance shall be investigated and prosecuted consistent with the process employed concerning alleged violations of the Sustainable Land Development Code, as amended. A complaint form for use in reporting violations of this Ordinance shall be available on the County webpage for use in reporting violations.

SFC CLERK RECORDED 02/25/2014

SECTION 12 – EFFECTIVE DATE.

This Ordinance shall become effective sixty (60) days after its adoption by the Board.

PASSED, APPROVED AND ADOPTED this 25th day of February, 2014.
THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

Daniel W. Mayfield, Chair

Robert A. Anaya, Vice-Chair

Liz Stefanics, Commissioner

Miguel M. Chavez, Commissioner

Kathy Holian, Commissioner

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDINANCE
PAGES: 6

I Hereby Certify That This Instrument Was Filed for Record On The 25TH Day Of February, 2014 at 04:03:48 PM And Was Duly Recorded as Instrument # 1730815 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy _____ County Clerk, Santa Fe, NM

ATTEST:

Geraldine Salazar, Santa Fe County Clerk 2/25/2014

APPROVED AS TO FORM:

Stephen C. Ross, County Attorney

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

ORDINANCE NO. 2014 – 5

AN ORDINANCE AMENDING ORDINANCE NO. 2014-1 (AN ORDINANCE ESTABLISHING A LIVING WAGE WITHIN SANTA FE COUNTY; SPECIFYING EMPLOYERS SUBJECT TO THE LIVING WAGE; MAKING FINDINGS AS TO THE NECESSITY OF A LIVING WAGE; ESTABLISHING A PROHIBITION ON RETALIATION FOR REPORTING VIOLATIONS OF THE LIVING WAGE; PROVIDING FOR REMEDIES AND PENALTIES; SPECIFYING ENFORCEMENT OFFICERS; PROVIDING THE PROCESS TO BE EMPLOYED UPON COMPLAINTS OF VIOLATION; ESTABLISHING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE), TO MODIFY THE BASE WAGE FOR TIPPED EMPLOYEES

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT ORDINANCE NO. 2014-1, IS AMENDED AS FOLLOWS:

1. Section Five (Minimum Wage Payment Requirements), subsection B is amended to read as follows:

> B. An employer shall pay an employee who customarily and regularly receives more than thirty dollars ($30.00) a month in tips and/or commissions:
>
> (i) the base wage; and
>
> (ii) an amount determined by subtracting from the living wage both the base wage and the tips and commissions actually received by an employee; provided that, if the result of this calculation is less than zero, no additional wages are due under this subparagraph (ii).
>
> Until January 1, 2015, the base wage is the minimum cash wage that must be paid to tipped employees under the federal Fair Labor Standards Act of 1938, 29 U.S.C., Chapter 8. Commencing on January 1, 2015, the base wage shall be thirty percent of the living wage established by this Ordinance. On January 1, 2015 the base wage rate shall be three dollars and twenty cents ($3.20) per hour. Thereafter, the base wage shall increase simultaneous with each living wage increase. Tips received by an employee shall be determined in accordance with the federal Fair Labor Standards Act of 1938, 29 U.S.C., Chapter 8, and implementing regulations.

2. All provisions of Ordinance No. 2014-1 not herein amended shall remain in full force and effect.

3. This Ordinance shall become effective thirty days after recordation pursuant to NMSA 1978, Section 4-37-9 (1975).

PASSED, ENACTED AND ADOPTED THIS 27th DAY OF May, 2014.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

Daniel W. Mayfield, Chair

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

5-27-2014

APPROVED AS TO FORM:

Gregory S. Shaffer, County Attorney

BCC ORDINANCE
COUNTY OF SANTA FE) PAGES: 2
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for Record On The 28TH Day Of May, 2014 at 04:33:51 PM And Was Duly Recorded as Instrument # 1737797 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy County Clerk, Santa Fe, NM

CITY OF SANTA FE

28-1 LIVING WAGE.

28-1.1 Short Title.

This section may be cited as the "Living Wage Ordinance". (Ord. #2002-13, §1)

28-1.2 Legislative Findings.

The governing body of the city has determined that:

A. The public welfare, health, safety and prosperity of Santa Fe require wages and benefits sufficient to ensure a decent and healthy life for workers and their families;

B. Many Santa Fe workers earn wages insufficient to support themselves and their families;

C. Many Santa Fe workers cannot participate in civic life or pursue educational, cultural, and recreational opportunities because they must work such long hours to meet their households' most basic needs;

D. Minimum wage laws promote the general welfare, health, safety and prosperity of Santa Fe by ensuring that workers can better support and care for their families through their own efforts and without financial governmental assistance;

E. The average earnings per job in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) higher than the national average;

F. Housing costs in Santa Fe are much higher than in most other parts of New Mexico, and low income workers must therefore spend a disproportionate percentage of their income sheltering themselves and their families;

G. Livable wages also benefit employers and the economy as a whole by improving employee performance, reducing employee turnover, lowering absenteeism, and thereby improving productivity and the quality of the services provided by employees;

H. When businesses do not pay a livable wage, the community bears the cost in the form of increased demand for taxpayer-funded social services including homeless shelters, soup kitchens and healthcare for the uninsured. Coupled with high real estate values, low wages reduce the ability of low- and moderate-income residents to access affordable housing. As a result, the city has had to invest significant tax dollars to support affordable housing including funding to nonprofit organizations, purchasing land, building infrastructure and waiving fees. In addition, the city has allocated significant tax dollars to operate after school and summer recreation programs and to support nonprofit organizations offering an array of human services and children and youth services, all of which are needed by very low-income residents and their families;

I. It is in the public interest to require certain employers benefiting from city actions and funding, and from the opportunity to do business in the city, to pay employees a minimum wage, a "living wage", adequate to meet the basic needs of living in Santa Fe;

J. According to the 2000 Census, approximately twelve and three-tenths percent (12.3%) of the Santa Fe community lives below the poverty level; and

K. According to the New Mexico department of labor, twenty-three and one-half percent (23.5%) of Santa Feans who are employed in the nongovernmental sector earn hourly wages of ten dollars and fifty cents ($10.50) per hour or less.

L. The governing body has reviewed the impact of previous minimum wage increases, relevant studies and other appropriate data, and finds that the city's minimum wage should be upwardly adjusted each year to keep pace with increases in the cost of living.

M. The governing body has found that limiting coverage of the minimum wage just to businesses with twenty-five (25) or more employees has hindered compliance and has created an uneven playing field among local businesses.
(Ord. #2002-13, §2; Ord. #2003-8, §1; Ord. #2007-43, §1)

28-1.3 Authority of the City of Santa Fe.

This Living Wage Ordinance is adopted pursuant to the general welfare and police powers conferred upon the city of Santa Fe by §3-17-1 et seq. and §3-18-1 et seq. NMSA 1978, pursuant to the powers conferred upon the city of Santa Fe by New Mexico Constitution, Article X §§6(D) and 6 (E) and the Municipal Charter Act §3-15-1 et seq. NMSA 1978, which have been exercised by the city's adoption of its "Santa Fe Municipal Charter". (Ord. #2002-13, §3; Ord. #2003-8, §2)

28-1.4 Purpose.

The purposes of this section are:

A. To have the city of Santa Fe set an example for the public and private sectors by paying its employees a minimum wage adequate to meet the basic needs of living in Santa Fe.

B. To raise the income of low-income employees of employers who contract with the city, receive grants, subsidies or other benefits from the city or benefit from the opportunity to do business in Santa Fe.
(Ord. #2002-13, §4; Ord. #2003-8, §3)

28-1.5 Minimum Wage Payment Requirements.

A. The following shall pay the minimum wage:

(1) The city of Santa Fe to all full-time permanent workers employed by the city. However, the provisions of this section are expressly limited by and subject to future union negotiations in compliance with the Fair Labor Standards Act and subsequent appropriations by the governing body in compliance with the Bateman Act;

(2) Contractors for the city, that have a contract requiring the performance of a service including construction services but excluding purchases of goods, shall pay the

minimum wage to their workers and subcontractors performing work under the contract if the total contract amount with the city is, or by way of amendment becomes, equal to or greater than thirty thousand dollars ($30,000.); and

(3) Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars ($25,000.) to those employed by such entity for the duration of the city grant or subsidy; and

(4) Businesses required to have a business license or business registration from the city of Santa Fe and nonprofit organizations shall pay the minimum wage to their workers for all hours worked within the city of Santa Fe that month. For purposes of this paragraph, worker shall not include any person who is related by blood or by marriage to any person who may have or possess any ownership interest in the business that employs them. For purposes of identifying persons entitled to be paid the minimum wage, all individuals employed by or providing work to the business for compensation, whether on a part-time, full-time or temporary basis, during a given month shall be counted as a worker. This definition shall include contingent or contracted workers, and persons made available to work through the services of a temporary service, staffing or employment agency or similar entity. However, interns working for a business for academic credit in connection with a course of study at an accredited school, college or university or persons working for an accredited school, college or university while also attending that school, college or university, or persons working for a business in connection with a court-ordered community service program such as teen court or workers who are in an apprenticeship program in a 501C(3) organization (such as the Santa Fe Opera) shall not be counted as a worker for such purposes.

B. Beginning January 1, 2004, the minimum wage shall be an hourly rate of eight dollars and fifty cents ($8.50). In computing the wage paid for purposes of determining compliance with the minimum wage, the value of health benefits and childcare shall be considered as an element of wages. On January 1, 2006, the minimum wage shall be increased to an hourly rate of nine dollars and fifty cents ($9.50). Beginning January 1, 2009, and each year therafter, 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.

C. For workers who customarily receive more than one hundred dollars ($100.) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards 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.

D. Nonprofit organizations whose primary source of funds is from Medicaid waivers are exempt.

E. Staff shall contract for a study or studies to review the impact of changes made to the Living Wage Ordinance approved as Ordinance No. 2007-43 on businesses of less than ten employees and on the student drop-out rate. The study shall be presented to the governing body no later than July 1, 2009.
(Ord. No. 2002-13, §5; Ord. #2003-8, §4; Ord. #2005-40; Ord. #2007-43, §2)

28-1.6 Prohibitions Against Retaliation and Circumvention.

A. It shall be unlawful for any employer or employer's agent or representative to take any action against an individual in retaliation for the exercise of or communication of information regarding rights under this section. This section shall also apply to any individual that mistakenly, but in good faith, alleges noncompliance with this section.

B. Taking adverse action against an individual within sixty (60) days of the individual's assertion of or communication of information regarding rights shall raise a rebuttable presumption of having done so in retaliation for the assertion of rights.

C. It shall be unlawful for any business or employer to intentionally circumvent the requirements of this section by contracting portions of its operation or leasing portions of its property. (Ord. #2002-13, §6; Ord. #2003-8, §5)

28-1.7 Reserved.

Editors Note: Former subsection 28-1.7, Compliance Through Collective Bargaining Process, previously codified herein and containing portions of Ordinance No. 2002-13, was repealed in its entirety by Ordinance No. 2004-38.

28-1.8 Enforcement; Remedies.

A. *Administrative Enforcement.* The city manager, or his/her designee, is authorized, as appropriate and as resources permit, to enforce this section. The city manager is authorized to investigate possible violations of this section. Where the city manager, after a proceeding that affords a suspected violator due process, concludes that a violation has occurred, the city manager may issue orders to the employer appropriate to effectuate the complaining person's rights, including but not limited to back pay and reinstatement. The city manager also has the power to order termination of any and all economic benefit derived by any offending party from the city and has the power to revoke the employer's business license or registration.

B. *Criminal Penalty.* A person violating this section 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 section shall be guilty of a separate offense for each day or portion thereof and for each worker or person as to which any such violation has occurred.

C. *Other Remedies.* The city, any individual aggrieved by a violation of this section, or any entity the members of which have been aggrieved by a violation of this section, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this section 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.

D. *Nonexclusive Remedies and Penalties.* The remedies provided in this section are not exclusive, and nothing in this section shall preclude any person from seeking any other remedies, penalties, or relief provided by law.
(Ord. #2002-13, §8; Ord. #2003-8, §6)

28-1.9 Effect.

Nothing in this Living Wage Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an ex post facto law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, §19. (Ord. #2002-13, §9)

28-1.10 Severability.

The requirements and provisions of this section and their parts, subparts and clauses are severable. In the event that any requirement, provision, part, subpart or clause of this section, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the governing body that the remainder of the section be enforced to the maximum extent possible consistent with the governing body's purpose of ensuring a living wage for persons covered by the section. (Ord. #2002-13, §10; Ord. #2003-8, §7)

28-1.11 Notice; Posting; and Publication.

Any business subject to the provisions of this section 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 section and in particular post the text of subsections 28-1.5, 28-1.6 and 28-1.8 SFCC 1987. Failure to comply with this subsection shall be construed a violation of this section and, in addition, shall be considered grounds for suspension, revocation, or termination of the business license or registration. (Ord. #2003-8, §8)

28-1.12 Living Wage Review.

The city shall conduct a review of this section on or before July 1, 2005. In conducting said review the governing body may, at its discretion and pursuant to a duly-adopted resolution, appoint an ad hoc committee to advise and assist in making recommendations regarding this section and to investigate the economic and social effects of this section on Santa Fe. The city will contract with an independent third party to develop an evaluation that will generate objective measures on the effect of the Living Wage Ordinance on the health, security, and livelihood of Santa Feans by March 31, 2003. Data necessary for such an evaluation on Santa Fe city businesses will be compiled and presented to the governing body for their review on or before July 1, 2003. In compiling the data, consideration should be given to potential impacts on youth employment and possible recommendations that might prevent unforeseen consequences hurting children in the community. (Ord. #2003-8, §9)

City of Santa Fe Living Wage Ordinance

PURSUANT TO THE CITY OF SANTA FE LIVING WAGE ORDINANCE, SECTION 28-1 SFCC 1987 EFFECTIVE MARCH 1, 2016 ALL WORKERS WITHIN THE CITY OF SANTA FE SHALL BE PAID A LIVING WAGE OF

$10.91 PER HOUR

Santa Fe's Living Wage

- The Santa Fe Living Wage Ordinance establishes minimum hourly wages.
- The March Living Wage increase corresponds to the increase in the Consumer Price Index (CPI).
- All employers required to have a business license or registration from the City of Santa Fe ("City") must pay at least the adjusted Living Wage to employees for all hours worked within the Santa Fe city limits.

Who is Required to Pay the Living Wage?

- The City to all full-time permanent workers employed by the City;
- Contractors for the City, that have a contract requiring the performance of a service but excluding purchases of goods;
- Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars ($25,000) for the duration of the City grant or subsidy;
- Businesses required to have a business license or registration from the City; and
- Nonprofit organizations, except for those whose primary source of funds is from Medicaid waivers.
- For workers who customarily receive more than one hundred dollars ($100) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the Living 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.

More Information, including the Living Wage Ordinance, is available at
http://www.santafenm.gov
(Click on Hot Topics/Living Wage)

APPENDIX D

Resident Veterans Preference Certification

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 _____, 2016.

_____
NOTARY PUBLIC

My Commission Expires:

_____

APPENDIX E

Sample Contract

SANTA FE SOLID WASTE MANAGEMENT AGENCY

PROFESSIONAL SERVICES AGREEMENT

(On-Call Engineering Services - 2016)

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("The Agency") and _____ (the "Contractor") for Engineering Services for the On-Call Engineering Services for the Santa Fe Solid Waste Management Agency (RFP No. '16/35/P) as described in Exhibit A and below. The Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. SCOPE OF SERVICES

The professional services subject to this Agreement are set forth in the Scope of Work attached hereto as Exhibit A.

2. STANDARDS OF PERFORMANCE; LICENSES

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

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

3. COMPENSATION

A. The Agency shall pay to Contractor in full payment for services rendered, including applicable gross receipts taxes, a sum not to exceed XX Dollars and XX Cents ($XX.XX).

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 and approval by the Agency of detailed statements containing a report of services completed. Compensation shall be paid only for services actually

performed in accordance with the fee schedule set forth in the Scope of Work hereto attached in Exhibit A.

D. Detailed statements containing reimbursement expenses shall be itemized.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for The Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 6 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on _____, 2017, unless it is terminated sooner pursuant to Article 6 below.

B. Pursuant to the limitations on multi-term contracts for professional services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor and approved by the Joint Powers Board.

6. TERMINATION

The Agency may terminate this Agreement upon ten (10) days written notice to Contractor. If the Agency terminates the Agreement:

1) Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the Agency original copies of all work product, research, or papers prepared for the services covered by this Agreement. The Agency shall pay Contractor for services rendered and expenses incurred under this Section, including for preparation of the final report.

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

3) If compensation is based upon hourly rates and expenses, 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. Contractor, its agents, and its employees are independent contractors performing professional services for The Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency, and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors Contractor retains to perform any of its obligations pursuant to this Agreement.

8. 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 Agency's prior written approval.

9. CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this

Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

10. ASSIGNMENT; SUBCONTRACTING

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

11. RELEASE

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

12. INSURANCE

A. Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement professional liability insurance of $2,000,000 for each claim, comprehensive general liability insurance of $2,000,000 for each occurrence and $4,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than 30 days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this

Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall also carry and maintain sufficient automobile liability insurance throughout the term of this Agreement to cover no less than $2,000,000 combined single limit for each accident.

13. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title, or interest in, or for the benefit of, any person other than the Agency 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.

16. RECORDS AND AUDIT

Contractor shall maintain throughout the term of this Agreement and for a period of three years thereafter detailed records that indicate the date, time, and nature of services rendered. These records shall be

subject to inspection by the Agency, the City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

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

18. AMENDMENT

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

19. SCOPE OF AGREEMENT

This Agreement expresses the entire agreement and understanding between the parties with respect to the services set forth in the Scope of Work attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

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

21. SEVERABILITY

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

22. NOTICES

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

AGENCY: Mr. Randall Kippenbrock, P.E.
Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506

CONTRACTOR:

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

SANTA FE SOLID WASTE
MANAGEMENT AGENCY:

_____ _____
Kathy Holian Date:
Chairperson, Joint Powers Board

ATTEST:

_____
Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____
Date:

APPROVED AS TO FORM:

_____ _____
Nancy R. Long Date:
Agency Attorney