

ITEM # 16-0710

CITY OF SANTA FE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Regional Development Corporation of New Mexico (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City and the Contractor, whichever occurs last.

1. SCOPE OF SERVICES

The Contractor shall provide the coordination services of a program, called the Venture Acceleration Fund (VAF) for the City. This shall include:

- A. Supporting technology related businesses by investing in the Northern New Mexico Venture Accelerator Fund, a competitive award that provides funding for regional start-up businesses to develop a product or service.
- B. Identify Santa Fe companies to receive VAF funds.
- C. Distribute contract funds to City approved companies.
- D. Report to the City's Office of Economic Development on the funded companies performance and business condition, after the distribution of City funds and in accordance with VAF benchmarks.
- E. In order to help further a city wide data collection effort to better understand the local entrepreneurial and

workforce community, programs and constituent needs, the contractor agrees to contribute requested internal (non-confidential) data to the City's economic development data staff or contractor and to make every reasonable effort to align data collection efforts to inform this effort.

2. STANDARD OF PERFORMANCE; LICENSES

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

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

3. COMPENSATION

A. The City shall pay to the Contractor in full payment for services rendered a sum not to exceed thirty thousand dollars (\$30,000). Payment shall be made for services actually rendered at fifty-percent (50%) when the work is halfway complete, with the remaining fifty-percent (50%) to be paid upon completion of the work. The City reserves the right to have final approval of the competitive company awards funded by this contract.

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

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

4. APPROPRIATIONS

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

5. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and terminate on December 31, 2017, unless sooner pursuant to Article 6 below.

B. Option to Renew. The City retains the right to renew this Agreement up to three additional one year terms contingent upon parties reaching an agreement as to the terms and conditions. The option may be exercised by the City by notifying Contractor in writing at least 45 days prior to the expiration.

6. TERMINATION

A. This Agreement may be terminated by the City upon 30 days written notice to the Contractor.

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

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

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

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

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

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

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

8. CONFIDENTIALITY

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

9. CONFLICT OF INTEREST

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

10. ASSIGNMENT; SUBCONTRACTING

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

11. RELEASE

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

12. INSURANCE

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

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for

Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

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

#### 13. INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

#### 14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation

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

15. THIRD PARTY BENEFICIARIES

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

16. RECORDS AND AUDIT

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

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees



that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

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

19. SCOPE OF AGREEMENT

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

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed,

color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

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

22. NOTICES

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

City of Santa Fe:  
Office of Economic Development  
P.O. Box 909  
Santa Fe, NM 87504-0909

Contractor:  
Regional Development  
Corporation  
P.O. Box 2698  
Española, NM 87532

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

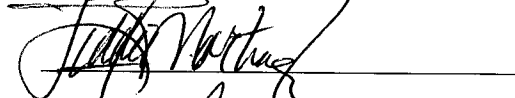
CITY OF SANTA FE:

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

DATE: 8/2/16

CONTRACTOR:

REGIONAL DEVELOPMENT CORPORATION

  
\_\_\_\_\_

DATE: August 4, 2016

CRS # 02-328893-00-0  
City of Santa Fe Business  
Registration # 16-34593

ATTEST:

*Yolanda Y. Vigil*  
YOLANDA Y. VIGIL  
CITY CLERK  
CC mtg 7/27/16

APPROVED AS TO FORM:

*Kelley A. Brennan* 7/27/16  
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

*Oscar Rodriguez* 7-29-2016  
OSCAR RODRIGUEZ, DIRECTOR  
FINANCE DEPARTMENT

22116.510340  
BUSINESS UNIT/LINE ITEM

**American Hallmark Insurance Company of Texas**

777 Main St Ste 1000 Fort Worth, TX 76102

**COMMERCIAL GENERAL LIABILITY**

RENEWAL DECLARATION

**POLICY NO. 44-CL-414673-19/000**

RENEWAL OF 44-CL-000414673-18

**NAMED INSURED AND MAILING ADDRESS**

**AGENCY AND MAILING ADDRESS**

7149

REGIONAL DEVELOPMENT CORPORATION  
PO BOX 2698  
ESPANOLA NM 87532

BLUE CHIP INSURANCE AGY, INC.  
PO BOX 5355  
SANTA FE NM 87502

POLICY PERIOD: From 06/05/2016 to 06/05/2017 AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.

**LIMITS OF INSURANCE**

GENERAL AGGREGATE	\$	2,000,000	
PRODUCTS-COMPLETED OPERATIONS AGGREGATE	\$	INCLUDED	
PERSONAL INJURY & ADVERTISING INJURY	\$	1,000,000	
EACH OCCURRENCE	\$	1,000,000	
DAMAGE TO PREMISES RENTED TO YOU	\$	100,000	ANY ONE PREMISES
MEDICAL EXPENSE	\$	5,000	ANY ONE PERSON

STATE-1

**LOCATION OF ALL PREMISES YOU OWN, RENT OR OCCUPY:**

LOC # 1: 706 BOND ST ESPANOLA, NM 87532  
LOC # 2: 1704 LENA ST SANTA FE NM 87505

LOC CLASSIFICATION	CODE	PREMIUM BASIS	PMS RATE	PDTS RATE
1 BUILDINGS OR PREMISES - OFFICE - NOT-FOR-PROFIT ONLY PRODUCTS-COMPLETED OPERATIONS ARE SUBJECT TO THE GENERAL AGGREGATE LIMIT	61227	AREA	1,600 118.965	INCL
2 BUILDINGS OR PREMISES - BANK OR OFFICE - MERCANTILE OR MANUFACTURING - MAINTAINED BY THE INSURED (LESSOR'S RISK ONLY) - OTHER THAN NOT-FOR-PROFIT PRODUCTS-COMPLETED OPERATIONS ARE SUBJECT TO THE GENERAL AGGREGATE LIMIT	61217	AREA	500 35.923	INCL
<b>HIRED AUTO LIABILITY</b>		PREMIUM \$	120	
<b>NON-OWNED AUTO LIABILITY</b>		PREMIUM \$	49	





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

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

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

2 Name of Contractor Regional Development Corporation

3 Complete information requested  Plus GRT  
 Inclusive of GRT

Original Contract Amount: \$30,000.00

Termination Date: December 31, 2017

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

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

**Contract is for:** Provide the coordination services of a program, called the Venture Acceleration Fund (VAF)

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

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

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

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

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

**Amendment is for:**

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

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

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

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

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

Total of Original Contract plus all amendments: \$ \_\_\_\_\_



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

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

RFP# 16/38/P Date: May 31, 2016
RFQ [ ] Date:
Sole Source [ ] Date:
Other

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

7 Funding Source: Economic Development BU/Line Item: 22116.510340

8 Any out-of-the ordinary or unusual issues or concerns:
(Memo may be attached to explain detail.)

9 Staff Contact who completed this form: Jessica Sandoval
Phone # xt. 6334

10 Certificate of Insurance attached. (if original Contract) [ ]

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review
and approval (depending on dollar level).

To be recorded by City Clerk:

Contract #

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

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

Comments:

Large empty rectangular box for comments.