

**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2012-10**

**INTRODUCED BY:**

Councilor Calvert

Councilor Romero

Councilor Trujillo

Councilor Wurzburger

Councilor Dominguez

Councilor Bushee

**AN ORDINANCE**

**ADOPTING THE 2012 PROCUREMENT CODE PURSUANT TO ARTICLE IX, SECTION 9.02 OF THE SANTA FE MUNICIPAL CHARTER AND ARTICLE 11-13 SFCC 1987.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

**Section 1. City of Santa Fe Procurement Code.** Pursuant to Article IX, Section 9.02 of the Santa Fe Municipal Charter and Article 11-13 SFCC 1987, the governing body shall adopt a procurement code by ordinance which may be amended from time to time.

**Section 2. Legislative Findings.**

**A.** On November 30, 2011 the governing body adopted:

(1) Resolution No. 2011-66 that directed staff to prepare amendments to the Purchasing Manual. Substantial amendments were made by staff to the Purchasing Manual to provide a bid preference to non-local contractors who used local subcontractors when bidding on city capital improvement contracts which is intended to increase the employment of the unemployed and underemployed residents of Santa Fe who work in the construction trades; and to establish allowances for veteran's bidding preference; and

1                   (2)     Resolution No. 2011-67 approving a \$22,000,000 gross receipts tax revenue  
2     bond issue for municipal capital projects that will create jobs during this difficult economic  
3     time; and

4                   (2)     Resolution No. 2011-68 that approved a \$22,800,000 general obligation bond  
5     for municipal capital projects, for approval by the voters of Santa Fe, that would invest in  
6     economic development projects that will create jobs during this difficult economic time.

7     C.     On February 29, 2012, the governing body adopted:

8                   (1)     Resolution No. 2012-\_\_\_\_, directing staff to establish a sweat-free  
9     procurement policy; and

10                  (2)     Resolution No. 2012-\_\_\_\_, directing staff to establish a buy American  
11     procurement policy.

12     D.     Due to the substantial and numerous amendments to the Purchasing Manual, the  
13     Council has determined that it is in the best interest of the public to adopt by this Ordinance, the 2012  
14     Procurement Code/Purchasing Manual, pursuant to the authority granted in Article IX, Section 9.02  
15     of the Santa Fe Municipal Charter and Article 11-13 SFCC 1987.

16     E.     Upon adoption, the Purchasing Manual shall be re-published with the publication  
17     date clearly designated, and all amendments shall be incorporated therein.

18               **Section 3.     Amendments.**     The governing body and the procurement officer have  
19     determined that the City procurement code/purchasing manual should be amended to reflect the above  
20     referenced resolutions of the governing body, including but not limited to, buy American and sweat  
21     free requirements, bid preferences for non-local contractors that use local subcontractors and  
22     veteran's bid preference as well as any other changes that staff determines are needed for ease of  
23     administration of the purchasing manual.

24               **A.     Section 3, Definitions, of the Purchasing Manual is amended to incorporate the**  
25     **following definitions:**

1 **3.102.1** SWEAT-FREE. As it relates to purchasing, the term sweat-free refers to purchasing  
2 policies that protect against slavery, forced overtime, child labor, excessive hours,  
3 below-subsistence wages, discrimination, abuse, harassment and similar work place  
4 violations and/or conditions and promotes purchasing policies that promote and protect  
5 freedom and worker health and safety.

6 **3.110** VETERAN. For purposes of the Veteran Preference in Section 15, Veteran has the  
7 same meaning as defined in 38 U.S.C. 101(2) quoted as follows: "2) The term  
8 "veteran" means a person who served in the active military, naval, or air service, and  
9 who was discharged or released therefrom under conditions other than  
10 dishonorable."

11 **B. Section 4.1.6 of the Purchasing Manual is amended to read:**

12 **4.1.6** Procurement Requirements for Tangible Personal Property and Services, Including  
13 Professional Services that Exceed \$5,000 up to \$49,999 or that exceed \$50,000.  
14 Purchases of tangible personal property and services, including professional services,  
15 that exceed \$5,000 require at least three verbal quotes. Purchases of tangible personal  
16 property and services, including professional services, that exceed \$5,000 but not more  
17 than \$50,000 require at least three written quotes. Purchases of tangible personal  
18 property exceeding \$50,000 require bids. Purchases of services, including professional  
19 services, that exceed \$50,000 in one fiscal year, not including applicable tax, require  
20 requests for proposals.

21 **C. Section 15 of the Purchasing Manual is amended to read:**

22 **15. PROCUREMENT ASSISTANCE, PREFERENCES AND REQUIREMENTS**

23 **15.1 PROCUREMENT ASSISTANCE TO SMALL BUSINESS**

24 **15.1.1** General Policy. It is the policy of the City to encourage small businesses, as defined in  
25 Section 3.97 of this Manual, to do business with the City.

1 15.1.2 Vendor Manual. The Purchasing Director shall issue a publication on how to do  
2 business with the City and how to be put on the bidders list in addition to any other  
3 reasonable action to ensure small businesses are invited to bid.

4 15.1.3 Bonding Requirements. The Purchasing Director may reduce bid bond, performance  
5 bond, or payment bond requirements to encourage procurement from small  
6 businesses. If determined to be in the best interest of the City, the reduced bond  
7 requirement must be so stated in the invitation for bid information. No reduction in  
8 bonding may be applied if not stated in the invitation for bid. Small businesses are  
9 defined as businesses which are not a subsidiary or division of another business and  
10 which have an average annual volume for the proceeding three fiscal years not  
11 exceeding \$1,500,000. If a bidder qualifies as a small business, the bond requirement  
12 may be reduced. In order to qualify for the reduced bond the firm must submit signed  
13 copies of the business tax returns for the last three years to indicate that the gross  
14 volume receipts qualify. Performance bonds and payment bonds for construction  
15 contracts may not be reduced to less than 50%. (See Section 28 PUBLIC WORKS  
16 (CONSTRUCTION) CONTRACTS.)

17 15.2 **BUY AMERICAN [~~MADE MOTOR VEHICLES~~] AND BUY SWEAT FREE**  
18 **REQUIREMENT**

19 The City shall ~~[only]~~ purchase goods, vehicles or items of tangible personal property  
20 manufactured or [~~vehicles or buses~~] assembled in the United States of [~~North~~] America.  
21 The City shall purchase its uniforms that are manufactured or assembled in sweat free  
22 businesses. [~~Vehicle-b~~] Bids shall certify compliance with these "Buy American" [~~state~~  
23 se] and "Buy Sweat-Free" requirements in bid documents. The City may waive one or  
24 both of these requirements if it is in the best interest of the City's finances to do so or if  
25 no such good, item of tangible personal property, or uniforms exist for purchase.

1 **15.3** **MINORITY BUSINESS PREFERENCE**

2 In order to attempt to increase the opportunity for the purchase of goods and services  
3 from minority owned businesses, the Purchasing Division shall deem certified minority  
4 businesses as those [as] listed in the minority business directory to be on the City's  
5 bidders list.

6 **15.4** **STATE OF NEW MEXICO RESIDENT PREFERENCE AND LOCAL**  
7 **(RESIDENT OF CITY AND/OR COUNTY OF SANTA FE) PREFERENCE**

8 **15.4.1** **INTENT AND POLICY**

9 a. For the purposes of Section 15, the terms "resident business" and "resident  
10 manufacturer" shall be defined as in N. M. Stat. Ann. Section 13-1-21 (1978).

11 b. The preference factor for resident preference applied to bids that qualify as a  
12 resident business and/or resident manufacturer shall be a five percent (5%)  
13 downward adjustment of the bid.

14 c. The preference factor for local preference applied to bids that qualify as a local  
15 business and/or local manufacturer shall be a ten percent (10%) downward  
16 adjustment of the bid.

17 d. Limitation. No bidder/proponent shall receive more than a 5% resident  
18 preference or 10% local preference, as applicable preference pursuant to Section  
19 15 on any one offer submitted. A bidder/proponent may not claim cumulative  
20 preferences.

21 e. Intent. The City recognizes that the intent of the New Mexico Procurement  
22 Code's, Section 13-1-1 et seq. NMSA 1978, [s] State resident preference statute  
23 is to give New Mexico businesses and contractors an advantage over those  
24 businesses, manufacturers and contractors from outside the State of New  
25 Mexico. The underlying policy is to give a preference to those persons and

1 companies who contribute to the economy of the State of New Mexico by  
2 maintaining businesses and other facilities within the state and giving  
3 employment to residents of the state (1969 OP. Attorney Gen. No. 69-42.) The  
4 City also has adopted a policy to include a local preference for those persons  
5 and companies who contribute to the economy of the City and/or County of  
6 Santa Fe by maintaining businesses and other facilities within the City and/or  
7 [e]County and giving employment to residents of the City and/or [e]County.

8 **15.4.2 HOW TO SUBMIT AN APPLICATION FOR AN[+] IN-STATE OF NEW**  
9 **MEXICO [AND OUT OF STATE-] BIDDER[S] PREFERENCE**

10 ~~[With acknowledgment of this]~~ The intent and policy of this [the] preference is to  
11 apply the preference only [will only be applied] when bids are received from in-state  
12 ~~[and county]~~ businesses, manufacturers and contractors that are within five percent (5%)  
13 of low bids received from out-of-state businesses, manufacturers and contractors (13-1-  
14 21 (A)-1-21 (F) and 13-4-2 (C) NMSA 1978.)

15 (a) To qualify for this preference and to be considered a New Mexico in-state  
16 resident for application of the in-state preference, the in-state bidder must have  
17 included with its bid or proposal:

18 (1) A valid State of New Mexico purchasing certification number  
19 evidencing State Purchasing Agent approval as an in-state resident in  
20 accordance with Section 13-1-22 NMSA 1978.

21 (2) A valid resident business certificate or resident contractor certificate  
22 issued by the New Mexico State Taxation and Revenue Department  
23 starting January 1, 2012.

1       (b) For information on obtaining a State of New Mexico in-state purchasing  
2       certification number, the prospective bidder should contact the Taxation and  
3       Revenue Department at 1-505-827-0951 or log on to the web site:  
4       [http://www.tax.newmexico.gov/Businesses/Pages/In-](http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx)  
5       [StatePreferenceCertification.aspx](http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx):

6       (c) As of January 1, 2012, the City of Santa Fe will only accept the new State  
7       Preference Certification Forms.

8       (d) The in-state preference does not apply to contracts that use federal funding.

9       (e) If the bidder has met the above criteria, the low responsive in-state resident bid  
10      shall be multiplied by .95. If that amount is then lower than the low responsive  
11      bid of an out-of-state, non-resident bidder, the award will be based taking into  
12      consideration the in-state, preference of the five percent (5%).

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

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

20      ~~For information on obtaining a state purchasing certification number, the prospective~~  
21      ~~bidder should contact the State of New Mexico General Services Department~~  
22      ~~Purchasing Office (Joseph Montoya Building 1100 S. St. Francis Drive 87505, 827-~~  
23      ~~0472.)~~

24      ~~All resident preferences shall be verified through the state Purchasing Office.~~  
25      ~~Applications for resident preference not confirmed by the state Purchasing Office~~

1 will be rejected. The certification must be under the bidder's business name  
2 submitting the bid.]

3 **15.4.3 REQUIREMENT TO BE CURRENT ON ALL STATE OF NEW MEXICO**  
4 **RELATED BUSINESS TAXES**

5 To be considered for the in-state resident preference during the bid and request for  
6 proposal process, the submitter of the bid and/or proposal shall be current on all State  
7 of New Mexico related business taxes, including but not limited to, GRT, Property,  
8 and Payroll taxes and submit proof thereof. The City Purchasing Officer may grant  
9 an exception to this requirement if the submitter has worked out a payment plan with  
10 the State of New Mexico Taxation and Revenue Department. A copy of the payment  
11 agreement will need to be included with all of the other submittal requirements.

12 **[15.4.3] 15.4.4 [NON-APPLICATION:] NO IN-STATE RESIDENT PREFERENCE APPLIED**  
13 **IN CASES OF COMPETING IN-STATE BIDDERS**

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

24 ~~[If the bidder has met the above criteria, the low responsive "resident" bid shall be~~  
25 ~~multiplied by .95. If that amount is then lower than the low responsive bid of a "non-~~



1       ~~resident” bidder, the award will be based taking into consideration the resident~~  
2       ~~preference of 5%.~~

3       ~~[15.4.4]~~14.4.5   **HOW TO SUBMIT AN APPLICATION AND QUALIFY FOR LOCAL**  
4       **PREFERENCE**

5       (a)     ~~[For the purposes of this section, the terms “resident business” and “resident~~  
6       ~~manufacturer” shall be defined as in N. M. Stat. Ann. Section 13-1-21~~  
7       ~~(1978).]~~Local Preference. The term “local”, for purposes of the “local  
8       ~~preference” in Section 15.4.5 shall mean:~~

9       (1)     ~~[Principal Office and location must be stated: To qualify for the local~~  
10       ~~preference, the]~~ The bidder’s principal place of business of the  
11       enterprise must be physically located within the Santa Fe County  
12       Geographic Boundaries.

13       (2)     The business location inserted on the Application Form must be a  
14       physical location, street address or such. DO NOT use a post office  
15       box or other postal address.

16       (3)     Principal place of business must have been established no less than  
17       six months preceding ~~[a]~~Application for Local Preference  
18       ~~[certification].~~

19       (b)     Bids for Goods and Services. When bids for the purchase of goods or services  
20       pursuant to Section 22 are received, the lowest responsive bid received from  
21       those bidders in the local preference category one shall be multiplied by the  
22       Local Preference Factor. The preference factor for local preferences applied to  
23       bids shall be .90 and the local preference for proposals shall be 1.10. ~~[Bids for~~  
24       ~~Goods and Services. When bids for the purchase of goods or services pursuant~~  
25       ~~to Section 22 are received, the lowest responsive bid received from those~~

1                    ~~bidders in the first category listed below shall be multiplied by the Preference~~  
2                    ~~Factor.~~] If the resulting price of that bid receiving the preference is lower than  
3                    or equal to the lowest bid of all bids received, the contract shall be awarded to  
4                    that bidder receiving the preference. If no bids are received from bidders in the  
5                    Local Preference ~~[first]~~category one, or if the bid receiving the preference does  
6                    not qualify for an award after multiplication by the Preference Factor, the same  
7                    procedure shall be followed with respect to ~~[the next]~~Resident Preference  
8                    category two of bidders listed to determine if the bid qualifies for award. The  
9                    priority of categories of bidders is:

10                    Category (1)                    Local business.

11                    Category (2)                    Resident business

12                    (c)    Proposals for Goods and Services. When proposals for the purchase of goods or  
13                    services pursuant to Section 23 are received, the evaluation score of the  
14                    proposal receiving the highest score of all proposals from those proponents in  
15                    the first category listed above shall be multiplied by the Preference Factor. If the  
16                    resulting score of the proposal receiving the preference is higher than or equal  
17                    to the highest score of all proposals received, the contract shall be  
18                    recommended to the proponent receiving the preference. If no proposals are  
19                    received from proponents in the first category, or if the proposal receiving the  
20                    preference does not qualify for an award after multiplication by the Preference  
21                    Factor, the same procedure shall be followed with respect to the next category  
22                    or proposals listed to determine if a proponent qualifies for award.

23                    ~~[Qualifications for Resident Preference. No resident business or manufacturer shall be~~  
24                    ~~given any preference in the awarding of contracts for furnishing goods or services to the~~  
25                    ~~City, unless it shall have qualified with the State Purchasing Agent as a resident business~~

1 or manufacturer and obtained a certification number as provided in Section 13-1-22  
2 NMSA 1978. The certification number must be submitted with its bid or proposal for an  
3 offeror to qualify for this preference.

4 The Purchasing Division shall determine if a resident preference is applicable to a  
5 particular offer on a case by case basis.]

6 (d) Qualifications for Local Preference. The Purchasing Division shall have  
7 available a form to be completed by all bidders/proponents who desire to apply  
8 for the local preference as a local business. The completed form with the  
9 information certified by the bidder/proponent must be submitted by the  
10 bidder/proponent with the bid or proposal to qualify for this preference.

11 ~~[Limitation. No bidder/proponent shall receive more than a 5% resident~~  
12 ~~preference or 10% local preference, as applicable preference pursuant to this~~  
13 ~~section on any one offer submitted. A bidder/proponent may not claim~~  
14 ~~cumulative preferences.]~~

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

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

24 **15.4.6 LOCAL SUBCONTRACTOR PREFERENCE**

- (a) Preference for Non-Local Primary Contractors Using Local Subcontractors.  
Non-Local Contractors that do not qualify for the local preference as stated in  
section 15.4.5 are eligible to receive a percent preference if qualified local  
subcontractors are identified and used as subcontractors for the non-local  
primary contractor on City Bids and Request for Proposals.
- (b) Local subcontractors identified and used as subcontractors for the non-local  
primary contractor must be registered and licensed with the City of Santa Fe.
- (c) Local subcontractors identified and used as subcontractors for the non-local  
primary contractor must be registered with the State of New Mexico as stated in  
section 15.4.2.
- (d) All local subcontractor documentation must be received at the time of submittal  
of the Request for Bid or Request for Proposals.
- (e) The local subcontractor must have been registered with the City of Santa Fe and  
the State of New Mexico for a period of one calendar year before the Bid or  
Request for proposal is publicly advertised.
- (f) The percentage for local subcontractor preference shall be based on the amount  
of work to be preformed by the various subcontractors. The maximum  
allowable percentage for local subcontractor preference is 10%. Example: on a  
construction project of \$100,000, the stated dollar amount of work to be  
completed by the local subcontractor is \$40,000 or 40%. The percentage for  
local subcontractor preference in this Example would be 4%.
- (g) The primary non-local contractor must not replace the local subcontractor  
without authorized approval from the City Project Manager or the Purchasing  
Officer.

**15.5 VETERANS PREFERENCE**

1 When a contract for supplies or services is to be awarded through competitive sealed  
2 bidding pursuant to Section 22 or through request for proposals Section 23, an  
3 amount equal to five percent (5%) of the bid price shall be subtracted from the bid of  
4 each bidder that is either a contractor that is at least fifty-one percent (51%) veteran-  
5 owned or a contractor with a workforce that is at least fifty-one percent (51%)  
6 comprised of veterans. When a contract for supplies, services, or professional  
7 services is to be awarded through a request for competitive sealed proposals pursuant  
8 to Section 23, one of the evaluation factors stated in the request shall be whether the  
9 offeror is either a contractor that is at least fifty-one percent (51%) veteran-owned or  
10 a contractor with a workforce that is at least fifty-one percent (51%) comprised of  
11 veterans. The relative weight assigned to the offeror's status as a veteran or as having  
12 a workforce that is at least fifty-one percent (51%) comprised of veterans shall be  
13 five percent (5%). Any contractor that claims the veterans' preference pursuant to  
14 this section when submitting a bid or offer shall submit, along with the bid or offer,  
15 certification of the contractor's status as either at least fifty-one percent (51%)  
16 veteran-owned or as having a workforce that is at least fifty-one percent (51%)  
17 comprised of veterans. The procurement officer shall create a certification process to  
18 be used by contractors to satisfy the requirements of this subsection and that may be  
19 relied upon by the City in giving a preference pursuant to this section.

20 **D. A new Section 28.8 of the Purchasing Manual is ordained to read:**

21 **28.8 COMMUNITY WORKFORCE AGREEMENTS**

22 **28.8.1 Legislative Findings. The Governing Body finds that:**

23 (a) The use of community workforce agreements for construction projects in  
24 excess of \$500,000, is in the best interest of the City, in building large capital  
25 outlay projects funded by Gross Receipts Tax and General Obligation bonds.

1           (b) Community workforce agreements will ensure that:

2                   (1) Time schedules are met for large-scale construction projects;

3                   (2) Large-scale construction projects will be completed with highly  
4                               qualified workers;

5                   (3) The project will meet the highest standards of safety and quality;

6                   (4) There are peaceful, orderly, and mutually binding procedures for  
7                               resolving labor issues to:

8                               (i) Avoid labor conflicts; and

9                               (ii) Promote overall stability throughout the duration of the  
10                                       project by providing legally enforceable guarantees that the  
11                                       projects will be carried out in an orderly and timely manner  
12                                       without strikes, lockouts, or slowdowns in light of complex  
13                                       project elements and diversity or numerosity of contractors.

14           (c) Community workforce agreements will allow the City to more accurately  
15                       predict the costs of large-scale construction projects and ensure fair and  
16                       reasonable working conditions for all workers for large-scale City  
17                       construction projects.

18 **28.8.2       Applicability; Contracts Over \$500,000.** Public works Construction contracts in  
19                       excess of \$500,000 shall be governed by a Community Workforce Agreement  
20                       ("CWA") and shall be known as "Covered Projects."

21 **28.8.3       Incorporation by Reference.** CWAs shall be included in any invitation for bid  
22                       packet used to initiate competitive sealed bid procurement for Covered Projects,  
23                       which shall include all contractual terms and conditions applicable to the  
24                       procurement, as described in Section 22.1 of this Purchasing Manual.

25 **28.8.4       Variable Terms.** The terms of any construction project CWA may vary in

1 accordance with the scope, duration, cost, or other characteristics of any Covered  
2 Project and such terms shall be determined by the City in any Invitation for Bid  
3 Packet on a project-by-project basis. Provided, however, that any CWA shall  
4 incorporate terms to promote the following objectives:

5 (a) Make available a ready and adequate supply of highly trained and skilled  
6 trade and craft workers;

7 (b) Accurately determine project labor costs at the outset of any construction  
8 project;

9 (c) Establish working conditions for all construction trades and crafts for the  
10 duration of the project;

11 (d) Negotiate legally enforceable commitments with all parties to a construction  
12 project to ensure labor stability and labor peace over the life of the project;

13 (e) Facilitate increases in the number of trained and skilled local construction  
14 workers through cooperative procedures and apprenticeship programs; and

15 (f) Promotes the hiring of local subcontractors in the construction of large-scale  
16 public works projects funded by gross receipts tax and general obligation  
17 bonds.

18 **E. Section 29.2 of the Purchasing Manual is repealed and a new Section 29.2 is**  
19 **ordained to read:**

20 **29.2 CONTINGENCY FEE CONTRACTS AUTHORIZED**

21 (a) In addition to other forms of payment of contractors provided for in this  
22 Manual, the City is authorized to enter into contracts, on a contingency fee  
23 basis, including but not limited to:

24 (1) Contracts with outside private attorneys; or

1                   (2)     Contracts with collection agencies to undertake recovery efforts for  
2                             delinquent utility charges or unpaid taxes by legal proceedings and  
3                             otherwise;

4                   (3)     Contracts to perform audits of the City to increase efficiency and  
5                             save money.

6           (b)     In matters for which a contractor has been retained by the City on a  
7                             contingency fee basis, the contingency fee paid to the contractor shall not  
8                             exceed thirty percent (30%) of either:

9                   (1)     The amount awarded and collected by the City pursuant by a court  
10                             order; or

11                  (2)     The amount collected by the City pursuant to a settlement  
12                             agreement;

13                  (3)     The amount collected by the City for a delinquent utility charge or  
14                             unpaid taxes;

15                  (4)     The amount of demonstrated, direct savings and/or efficiencies  
16                             achieved directly from an audit performed by the contractor.

17           (c)     The City may obtain professional services contingent upon receipt of a  
18                             federal or state grant. A written and approved grant agreement must be  
19                             executed before any commitment of funds.

20           (d)     The Purchasing Director shall have authority to determine whether a contract  
21                             shall be eligible for a contingency fee.

22           (e)     In addition, the contingency fee contract may provide for payment of the  
23                             contractor's reasonable out-of-pocket charges, costs and expenses.

24           **Section 4.     Adoption of City's 2012 Purchasing Manual/Procurement Code.** The  
25     city of Santa Fe 2012 Purchasing Manual is hereby adopted by reference and incorporated as fully as



1 set out herein and shall serve as the city of Santa Fe Procurement Code. Copies of the 2012  
2 Purchasing Manual including all amendments are on file at the city of Santa Fe clerk's office and the  
3 office of the city of Santa Fe procurement officer.

4 APPROVED AS TO FORM:

5   
6 \_\_\_\_\_

7 GENO ZAMORA, CITY ATTORNEY  
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25 *CAO/M/Melissa/Bills 2012/2012-10 Procurement Code*