

**The City of Santa Fe
AND
Community Health and Safety Department**

REQUEST FOR APPLICATION (RFA)

**Non-Congregate Solutions to Unsheltered Homelessness –
Safe Outdoor Spaces**



**RFA#
24-13-A**

RFA Release Date: July 11th, 2023

Applications Due Date: (45 days), August 25th, 2023

ELECTRONIC-ONLY APPLICATION SUBMISSION

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR APPLICATION

The purpose of the Request for Application (RFA) is to solicit applications from organizations, agencies, or other landowners and services providers to provide a space and/or services for temporary, non-congregate emergency shelter and opportunities for those experiencing unsheltered homelessness to connect to services in a Safe Outdoor Space (SOS) in the city of Santa Fe. Safe Outdoor Spaces are designated sites for temporary shelter and amenities that allow our unhoused neighbors to have a safe space to sleep while providing basic human necessities and assisting in resource connection.

B. BACKGROUND INFORMATION

Local officials and nonprofit providers across the city are struggling to address the increasing number of unsheltered individuals who are living without stable housing. A variety of factors contribute to this situation, including but not limited to lack of affordable housing, lack of mental health services, a rise in substance abuse, and the coronavirus pandemic. While the City of Santa Fe understands that the ultimate solution to homelessness is permanent housing of various types, this is a long-term solution that takes time. As the City continues to increase its production of affordable housing units, short term options must be made available to ensure the safety and well-being of those who are unhoused and foster a high quality of life for all residents and visitors in Santa Fe.

Solutions to homelessness rooted in best practices, including the Housing First and harm reduction models, offer pathways to appropriate housing based on individual needs. A SOS provides individuals with non-congregate sleeping quarters, access to bathrooms and showers, laundry facilities, meals, services, and case management. Staying at a SOS has demonstrated to be a direct pathway to stability in as much as it provides a regular place to return, a comfortable, climate-controlled place to sleep, a secure space to store belongings, agency and ownership, and community support. Importantly, the SOS enables outreach workers and case managers to consistently locate the people they are assisting.

Following the COVID-19 pandemic, the City dedicated American Rescue Plan Act (ARPA) funds to increase emergency shelter options. The Governing Body passed resolution 2023-16 (https://santafenm.gov/media/ordinances_resolutions/2023-16_web.pdf), directing City staff to evaluate and coordinate the establishment of a managed non-congregate site. This site aims to provide unhoused individuals with a location to safely reside, have their basic human needs met, and connect them with community resources that will help them achieve long-term stability. As a result of the resolution, the City has purchased 25 © Pallet modular cabins to be used in a Safe Outdoor Space (SOS) pilot project that will provide a non-congregate shelter option for individuals experiencing unsheltered homelessness.

II. ELIGIBLE APPLICANTS AND ACTIVITIES

A. ELIGIBLE APPLICANTS

OWNER

The owner of the SOS must be 501c3 or faith organization and must own an establishment that is in conformance with the regulations of SFCC 14-6, Permitted Uses and Use Regulations and that will adequately support the proposed use. The owner is required to work with a licensed engineer and project manager to prepare the site to meet the needs of the SOS, including but not limited to utility planning, land development, shelter placement, amenity design, and implementation.

OPERATOR

The operator may be any entity that has a proven successful background and experience in providing the services described in the scope of work. Eligible applicants must have proven financial capacity and organizational experience to carry out the activities described in the application submitted.

B. ELIGIBLE ACTIVITIES

OWNER

- a. Provide a physical site on which up to twenty-five (25) ©Pallet Shelter (palletshelter.com) modular cabins, purchased and owned by the City, can be installed and operated.
- b. Work with a licensed engineer and project manager to prepare the site on which the SOS will be constructed and maintain the site to meet standards according to code, service provider needs, and resident needs.

OPERATOR

Eligible activities include but are not limited to the following:

- a. Direct care services
- b. Case management
- c. Housing navigation
- d. Employment services
- e. Meal provision
- f. Veterinary services
- g. Data collection
- h. Evaluation
- i. Community collaboration
- j. Harm reductions services
- k. Substance use and abuse services
- l. Health services, physical and behavioral
- m. Training and development
- n. Security and 24/7 oversight of the SOS

III. SCOPE OF WORK

OWNER

Applicants must demonstrate their capability to provide the following services as described below: site preparation, design and layout, installation of required amenities, fulfillment of land use entitlement and permitting requirements, and any required upgrades to existing facility or property conditions needed to adequately support the proposed use. The selected applicant shall contract with a registered/licensed engineer and project manager to plan, design, and complete site preparation and other design and land use requirements of the project. The company Pallet will assume responsibility for erecting the shelters on the prepared site. The Owner shall work with a qualified project manager with experience on similar projects to oversee and coordinate the project requirements and build-out.

A. Specifications For Preparation, Design, And Layout:

- a. **SITE:** © Pallet shelters can be placed on nearly any surface that is level and the shelters do not require foundation. SOSs have been built on parking lots, grassy lawns, sports fields, dirt lots, vacant property awaiting development, and other locations. Locations may be limited by terrain management requirements, zoning requirements or other restrictions.
- b. **WATER AND SEWER ACCESS:** Sites will either have established connections to municipal water and sewer access, have plans to establish water and sewer access, or have plans to develop “off grid” solutions.
- c. **ELECTRICITY:** Sites shall either have established connections to municipal electricity, have plans to establish municipal electricity, or have plans to develop “off grid” solutions to meet the electrical loads required for the proposed use.
- d. **SECURING TO GROUND:** Shelters must be secured to the ground with connections certified by a licensed engineer.
- e. **HANDWASHING STATIONS:** Provide enough handwashing stations to support a ratio of 1 station per 10 people.
- f. **BATHROOMS:** Provide bathroom facilities to support a ratio of 1 bathroom per 10 people.
- g. **SHOWER FACILITES:** Provide access to shower and hygiene facilities. If the site is UNABLE to provide shower facilities, indicate how you will work with a community partner to provide this mandatory amenity.

- h. SPACING: A minimum of 10 feet between each shelter. Access driveways for emergency services vehicles, such as fire trucks and ambulances, shall also be planned into shelter spacing and arrangement.
- B. Required amenities shall include but are not limited to:
- a. Waste receptacles and services which accommodate the number of proposed Pallet Shelters
 - b. Site lighting
 - c. Fencing
 - d. Pet relief area
 - e. Designated smoking area
 - f. Food service area
 - g. Trailer or space for services to be provided, including space for individual meetings between the provider and the client.
 - h. Secure bike storage
 - i. Access to potable water
 - j. Site Maintenance
 - k. © Pallet Shelter cleaning and maintenance
 - l. Good Neighbor Agreement: the site owner must participate with the selected operator to create and facilitate a Good Neighbor Agreement which will encompass the SOS and the immediate surrounding community.
 - m. Carry Liability Insurance up to \$1,000,000.00.
- C. Desired amenities include the following and may add weight to the overall application:
- a. Inclusion of the Lived Experience Advisory Board in the design of the SOS.
 - b. Convenient access to public transportation

OPERATOR

Applicants shall provide the following services for the City. Deliver on-site services rooted in low-barrier shelter models to ensure that residents can dwell safely, comfortably, and with dignity by providing trauma-informed services that address the individual needs of residents and aim to quickly transition individuals into appropriate, sustainable housing. The selected applicant shall contribute to data collection to accurately capture the scope of homelessness in Santa Fe. Additionally, the selected applicant will work collaboratively with other service providers in the community, including via participation in community case-conferencing, to help residents meet their immediate health and social needs. The selected applicant shall develop and implement policies and procedures regarding site management, resident behavior, resident selection, and SOS rules. Policies should include responses to violations to ensure the safe, fair, and peaceful operation of the site. The selected applicant shall actively engage the surrounding community to create healthy relationships between the SOS and neighbors. Lastly, the selected applicant shall

participate in program evaluation in partnership with the City to evaluate the outcomes of the SOS pilot project.

D. Specifications For Creation of Policies and Procedures:

- a. **POLICIES AND PROCEDURES:** Develop site rules and operating procedures before the opening of the site. Rules shall be based on preventing conduct that harms the health and safety of others and consider trauma informed approaches and low barrier modeling. Policies and procedures should include at least the following:
 - i. Day-to-day site operations including service provision.
 - ii. Application and selection process for site users.
 - iii. Intake process
 - iv. Data collection process for persons utilizing site (HMIS/Built for Zero/Connect)
 - v. Reasonable Accommodation process which includes pets.
 - vi. Site User Violations Procedure that includes a formal notice process with specific information explaining misconduct and how it violated site rules.
 - vii. Grievance process
 - viii. Referral procedure to appropriate service/shelter alternatives if a resident must leave.
 - ix. Job descriptions (including for volunteers)
 - x. Development and implementation of a Good Neighbor Agreement before the opening of the site: the site operator must participate with the selected owner to create and facilitate a Good Neighbor Agreement which will encompass the SOS and the immediate surrounding community.

E. Specifications For Site Operations:

- a. **SITE MANAGEMENT:** Provide 24/7 staffing and security.
- b. **PROPERTY MANAGEMENT:** Provide oversight to ensure the site is well maintained, habitable, and safe.
- c. **LITTER CONTROL:** Ensure that the SOS, the fence line, and immediate surrounding space of the SOS remains free of litter.

F. Specifications For Services

- a. **OUTREACH AND COORDINATION:** Collaborate with service providers, local non-profit providers, hospitals/clinics, and other organizations to provide comprehensive services at the site.
- b. **CASE MANAGEMENT:** Provide intensive case management and housing navigation to quickly move residents into sustainable, permanent housing

while working on other goals and developing a support system to help maintain housing.

- i. Ensure that every resident leaves the SOS with applicable benefits and documents. E.g., ID, birth certificate, social security card, housing voucher, SNAP.
- c. CRISIS INTERVENTION: Provide de-escalation, crisis intervention, and creative problem solving to avoid negative interactions with law enforcement.

G. Specifications For Insurance:

- a. Liability Insurance of up to \$1,000,000.000

IV. FUNDING/AWARDS

For the FY24-FY25, a balance of \$1,000,000 in ARPA funds is available. Applications will be reviewed, and funding recommendations will be made by an evaluation committee comprised of City staff and representatives from several City Committees/Commissions/Boards. Awards will be based on the applicant's demonstration of how the proposed project meets the City's priority of providing shelter solutions to those experiencing unsheltered homelessness and furthering the goal of ending homelessness.

The following criteria will be evaluated by the evaluation committee to make funding recommendations:

- Funding: the proposed project budget is realistic and includes a preliminary plan for funding of operations to continue past the one-year pilot period.
- Need/Benefit and Project Feasibility: the applicant demonstrates ability to address underlying/systemic challenges in the community, is responsive to current/future demand, and provides a realistic timeframe for the completion of proposed activities.
- Organizational Capability and Management: the applicant(s) adequately describes its organizational experience, expertise in the proposed type(s) of assistance or service and demonstrates financial soundness.

V. APPLICATION SEQUENCE OF EVENTS

Applications will be evaluated first by the Land Use Department to ensure feasibility of the proposed site location of the SOS. Should Land Use determine that the proposed site is not feasible, the landowner's application will be denied. The City project manager will contact the applicant directly to provide notice of the denied owner application. If applicants for the owner portion believe they have another viable piece of land, they may submit a new application up until the closing date of the application period. Should Land Use determine that the site is feasible, the application will move

forward to the evaluation committee. Applications will be reviewed as they are received to allow for quick awards once the response period has closed. Once the initial funding recommendation is made, the scope of work will be drafted, and the funding agreement considered by the City Council Committee process with final approval by the Governing Body. Applicants may alert the City as part of their response if they have any need or desire to modify agreement terms.

VI. QUESTIONS ABOUT THE APPLICATION PROCESS

All questions must be submitted via email to Program Manager (Brittany Rodriguez), Youth and Family Services, at bcrodriguez@santafenm.gov. Written responses to written questions will be posted on the City's website for the benefit of all applicants. A non-binding letter of interest **must** be emailed to Brittany Rodriguez, Program Manager. This will ensure that all prospective applicants receive notice of changes to this application process. The letter of interest is a simple note indicating that you intend to apply for funding, a brief description of the proposed project, and contact information for the organization.

VII. PRE-APPLICATION ORIENTATION

All interested applicants may attend the optional pre-application orientation session via Zoom. This meeting is to ensure understanding of the application process and requirements for funding. The virtual meeting will take place on July 20th, 2023, from 10:30 am to 12:30 pm. Please email bcrodriguez@santafenm.gov to receive meeting link. Spanish interpretation provided upon request. An archived recording of this information session will be made available on the City's website, along with a procurement library that contains links to useful resources.

VIII. APPLICATION SUBMISSION AND DUE DATE

Complete and signed applications are due to the Youth and Family Services Division no later than 5PM MDST/MST on August 25th, 2023. Applications **must** be electronically submitted via email to: bcrodriguez@santafenm.gov; Attn: Brittany Rodriguez_RFA23_75R_Application for Safe Outdoor Spaces

IX. APPLICATION FORMAT AND RESPONSE

- A. All Applications shall contain a cover letter signed by the person who is empowered by the organization's governing body to make application for funds stating that the information provided is true and correct to the best of the Applicant's information, knowledge, and behalf. The letter must provide the contact name and information for the person responsible for the Application, the name of the Project and the amount of funds requested;
- B. One original Application (Appendix A), together with all required attachments which describes the scope of the Project proposed by the Applicant and for which the Applicant is applying for funds, and which describes the type and/or amount of assistance which the Applicant proposes to provide to Persons Experiencing Unsheltered Homelessness.

- C. Campaign Contribution Disclosure Form signed by person authorized to submit this Application on behalf of the organization. (Appendix C)
- D. Documentation that the Applicant is duly organized in accordance with State or local law and is in good standing with any state authorities such as the Public Regulation Commission (e.g. Articles, Bylaws, and Certificate of Good Standing for a Corporation; Articles, Operating Agreement, and Certificate of Good Standing for a Limited Liability Company; partnership agreement and certificate of limited partnership for a partnership);
- E. For non-profit organizations, proof of 501(c)(3) tax status and list of current board members.
- F. Most recent independent financial audit and financial certifications, as follows, if applicable:
 - Evidence that the Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principles or has a designated entity that will maintain such an accounting system consistent with generally accepted accounting principles.
 - Evidence or certification that the Applicant has no significant outstanding or unresolved monitoring findings from the City of Santa Fe or its most recent independent financial audit; or if it has any significant outstanding or unresolved monitoring findings from the City of Santa Fe, or its most recent independent financial audit, it has a certified letter from the City of Santa Fe or the auditor stating that the findings are in the process of being resolved.
 - Organizational chart, including job titles and qualifications for the Applicant’s employees who will be contributing toward or working on the ARPA-funded project as proposed. Job descriptions may be submitted as appropriate for new positions that will be funded.
 - If such Applicant cannot certify to each of the above, such Applicant shall submit a signed statement to explain the facts and circumstances which such Applicant believes will explain the lack of certification. The Governmental Entity and/or the MFA may then determine if such Applicant is or is not qualified.

X. EVALUATION FACTORS

Criteria	Weighted Value	Evaluation Points	Score	Max. Score
Section A. Need/Benefit and Project Feasibility <ul style="list-style-type: none"> • The application is responsive to current best practices and addresses the Scope of Work • Realistic timeframe for completion of proposed project/program activities • Prioritizes individuals experiencing unsheltered homelessness 	50%			100
Section B. Budget and Funding Feasibility <ul style="list-style-type: none"> • Budget Narrative is detailed and complete. 	20%			250

*Section C. Performance System/Work Plan-OWNER • Detailed project timeline from award to site completion	30%			150
*Section C. Performance System/Work Plan-OPERATOR • Describes detailed goals, objectives, and outcomes	30%			150
TOTAL	100%			500

* Score calculated independently for each the owner and operator

APPENDIX A LEGAL LOT OF RECORD INFORMATION SHEET

Legal Lot of Record

The Santa Fe City Code, Section 14-12.1, defines a "legal lot of record" as follows:

“A lot that was created prior to the date of any applicable provision of law that required the lot to be approved as part of a subdivision, or that has been created as part of a subdivision created in accordance with all applicable laws or ordinances, or that has been created by a court order as provided in Section 14-3.7(A)(6), or for which a certificate of compliance has been issued pursuant to Section 14-3. 7 (A) (7) (b). The lot must be shown on a duly recorded plat or other written instrument that adequately describes the lot, that is recorded with the county clerk, and that documents compliance with this definition.”

Under the City's interpretation of this definition, to constitute a "legal lot of record," the lot:

1. Must be shown or described on a plat or other written instrument that adequately describes the lot and that has been recorded with the Santa Fe County Clerk; AND
2. Must have been created through one of the following four methods:
 - a. Part of a subdivision approved by the City;
 - b. Established before December 5, 1962;
 - c. Established by court order entered under Chapter 42 of the NMSA 1978; or
 - d. Described in a certificate of compliance issued by the land use director or the Planning Commission.

The City will recognize lots created before December 5, 1962, because that was the effective date of Ordinance No. 1962-19 (An Ordinance Relating to Zoning and Providing for its Enforcement), which the Governing Body approved on November 28, 1962. The ordinance set forth minimum lot size requirements, among other things, and provided that a lot established after that date must meet the requirements of the ordinance. The City's long-standing practice has been to recognize a lot that was created by a deed recorded prior to the effective date of Ordinance No. 1962-19, regardless of whether the lot received City approval.

Any lot created prior to that 1962 is considered a legal lot and if filed in the office of the County Clerk, is a lot of record. A legal lot created prior to 1962 may not always comply with current standards. This type of lot is still legal, just nonconforming i.e. it is grandfathered or has legacy status.

A legal non-conforming lot enjoys all the benefits of development as its counterpart with one small caveat: some legal non-conforming lots may have development constraints due to configuration and size or existing conditions as it relates to land and/or structures.

Any lot created after 1962 must have obtained City approvals (which would be listed on the plat of survey) for its creation to be legal and then filed in the Office of the County Clerk making it a lot of record.

There are four methods to prove that a lot is legal;

1. Plat of survey with City signatures of approval;

The City signature block should not be confused with the County Clerk recording stamp and seal. The recording stamp will contain the date, time, plat book, page number, instrument number and County Clerk Seal when the plat was made part of the public records. The City signature block contains signatures of a city planner, subdivision engineer and possibly various other signatures depending on the plat approval process such as City Council, Planning Commission or Public Works.

2. Plat of survey that shows the lot in question predates the Code (September 30, 1962);
3. A warranty deed that describes the property in question in its current boundary configuration that predates the Code (September 30, 1962).

For items 2 and 3 above, the plat and deed will not likely contain a City signature block but only the County Clerk recording stamp and Seal, and only if it was recorded and made part of the County Clerk records.

4. Provide documentation listed above for all adjoining properties identifying the lot as legal by exclusion.

Documentation must be provided demonstrating all legal lots which share a property line(s) with the subject property. With this method, it must be shown that all property lines are either City approved or legal non-conforming (established before September 30, 1962) creating a legal lot by exclusion.

All documents required for proving Legal Lot of Record are filed with Santa Fe County. Please contact the Office of the County Clerk to request a copy of any of the above documents.

APPENDIX B CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, §§ 13-1-28, and 13-1-191.1, as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a application is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give 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 during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to NMSA 1978, § [13-1-181](#) or a contract that is executed may be ratified or terminated pursuant to Section NMSA 1978, § [13-1-182](#) if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or 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.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR APPLICATIONS AND 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 application or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive application.

“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 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 a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

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

“Prospective contractor” means a person or business that is subject to the competitive sealed application process set forth in the Procurement Code [NMSA 1978, §§ [13-1-28](#) through [13-1-199](#)] or is not required to submit a competitive sealed application because that person or business qualifies for a sole source or 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.

Name(s) of Applicable Public Official(s) if any: _____

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

**APPENDIX C
CONFLICT OF INTEREST FORM**

**CONFLICT OF INTEREST STATEMENT FOR
CONSULTING FIRMS**

The City of Santa Fe policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest, in the award and administration of City contracts and Purchase Orders.

The Offeror shall comply with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978 and include a full disclosure of all potential organization conflicts of interest in the Application.

In addition to the OWNER and OPERATOR, each key personnel shall also complete the Conflict of Interest Form below certifying that the entity has read and understands the City's policy regarding conflict of interest and the CFR. Each key personnel must also certify that there is no conflict of interest with the Project. If there is a conflict with the Project, then the Owner/Operator and known key personnel needs to describe the conflict.

The Owner/Operator agrees that, if after award, an organizational conflict of interest is discovered, the Owner/Operator makes an immediate and full written disclosure to the City that includes a description of the action that the Owner/Operator has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the City may, at its discretion, cancel the contract for the Project. If the Owner/Operator was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the City, the City may terminate the contract for default.

The City may disqualify an Offeror if any of its key personnel belong to more than one Submitter organization/firm.

I, _____ certify that I/We have no personal or financial interests and no present employment or activity which would be incompatible with this firm's participation in any activity related to the RFP or execution of the awarded Non-Congregate Solutions to Unsheltered Homelessness. For the duration of this firm's involvement in the Non-Congregate Solutions to Unsheltered Homelessness- Safe Outdoor Space contract, this firm agrees not to accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is bidding and/or proposing, or associated with a bidder and/or Offeror on the Non-Congregate Solutions to Unsheltered Homelessness contract.

I certify that this firm will keep all Non-Congregate Solutions to Unsheltered Homelessness

contract information confidential and secure. This organization will not copy, give, or otherwise disclose such information to any other person unless the City of Santa Fe has on file a confidentiality agreement signed by the other person, and the disclosure is authorized and necessary to the Non-Congregate Solutions to Unsheltered Homelessness contract. I understand that if this firm leaves this Non-Congregate Solutions to Unsheltered Homelessness contract before it ends, this firm must keep all contract information confidential. I agree to follow any instructions provided by the City relating to the confidentiality of the Non-Congregate Solutions to Unsheltered Homelessness contract information. I fully understand that any unauthorized disclosure made by this firm may be a basis for civil or criminal penalties. I agree to advise the City's Procurement Officer, at 505-955-6432 immediately in the event that I or another person within this organization either learn or have reason to believe that any person who has access to the Non-Congregate Solutions to Unsheltered Homelessness contract confidential information has or intends to disclose that information in violation of this agreement.

This statement must be fully completed and signed by an authorized representative.

Company Name: _____

Authorized Representative/Title: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

Signature: _____

Date: _____

The above information is subject to verification by the City of Santa Fe. If the City finds a misrepresentation, the bid may be automatically disqualified from the procurement process or the contract may be canceled.

APPENDIX D

DRAFT CONTRACT

Munis
Item#
Contract#
SAMPLE AGREEMENT

**RECOVERY FUNDS SUBRECIPIENT
CONTRACT BETWEEN CITY OF SANTA FE AND [ORGANIZATION/ NONPROFIT]
FOR [OWNER/OPERATOR OF A SAFE OUTDOOR SPACE]
REQUEST FOR PROPOSAL ONLY**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the “City”, and <Enter Contractor Name>herein after referred to as the “Contractor.”

RECITALS

WHEREAS, the City, as a recipient of a State and Local Fiscal Recovery Funds (SLFRF) award, has substantial discretion to use the award funds in the ways that best suit the needs of the City if such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the recipient that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; or
4. To make necessary investments in water, sewer, or broadband infrastructure;

WHEREAS this Contract falls within the first statutory category;

WHEREAS, recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds, Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable;

WHEREAS, the Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non- competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate;

WHEREAS, Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient; and

WHEREAS [Organization/Nonprofit] understands that this contract represents a subaward of SLFRF funds, agrees to maintain records to satisfy all compliance requirements for use of SLFRF, and agrees to all reporting requirements for expenditures of SLFRF funds.

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Definitions

- A. "Products and Services Schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.
- B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.
- C. "Subrecipient" means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. 2 C.F.R. § 200.1
- D. "You" and "your" refers to **(Contract Name)**. "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. Scope of Work

- A. Work performed by the contractor(s) will be dependent on final selection of proposals.
- B. Performance measures. The disproportionately impacted population this project will serve are unsheltered homeless individuals who are unable or unwilling to stay in congregate shelters due to fear of contracting COVID 19 and/or the inability/unwillingness to be vaccinated against the virus, which is a requirement for even the lowest barrier shelters.

3. Compensation

Compensation Schedule. The City shall pay to the Contractor based upon fixed prices for each Deliverable. Deliverables will be determined after the receipt of proposals.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of _____ dollars (\$ _____) per hour, such compensation not to exceed (AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on



the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the City to the Contractor. The total amount payable to the Contractor under this Agreement,

including gross receipts tax and expenses, shall not exceed \$ _____. All payments under this Agreement are subject to the following provisions.

B. **Payment.** The total compensation under this Agreement shall not exceed including New Mexico gross receipts tax. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.

C. **Payment shall be made upon Acceptance of each Deliverable and upon the receipt and Acceptance of a detailed, certified Payment Invoice.** Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices **MUST BE** received by the City no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date **WILL NOT BE PAID.**

D. **Retainage.** Not Applicable – The Parties agree there is no retainage.

E. **Performance Bond.** Not Applicable. The Parties agree there is no Performance Bond.

F. The Contractor may use SLFRF funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, if the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026. Costs for projects incurred by the subrecipient prior to March 3, 2021 are not eligible, as provided for in Treasury's final rule. Any funds not obligated or expended for eligible uses by the timelines above must be returned to Treasury, including any unobligated or unexpended funds that have been provided to subrecipients and contractors as part of the award closeout process pursuant to 2 C.F.R. 200.344(d).

4. Term

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City and end on December 31, 2025. In no event will the term exceed the duration allowed by statute, NMSA 1978, § 13-1-150.

5. Default and Force Majeure



The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub- contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

6. Termination

A. Grounds. The City may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the City's uncured, material breach of this Agreement.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 17, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

7. Amendment

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

8. Status of Contractor

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's 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. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

9. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

10. Subcontracting

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

11. Non-Collusion

In signing this Agreement, the Contractor/Contractor certifies the Contractor/Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

12. Inspection of Plant

The City may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

13. Commercial Warranty

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

14. Condition of Proposed Items

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

15. Records and Audit

During the term of this Agreement and for five years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

16. Appropriations

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, 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. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

17. Release

The Contractor, upon 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, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

18. 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 prior written approval by the City.

19. Conflict of Interest

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

20. Approval of Contractor Representative(s)

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

21. Scope of Agreement; Merger

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

22. Notice



The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

23. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

24. Indemnification

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

25. 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.

26. Applicable Law

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-2. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

27. Limitation of Liability

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the

City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

28. Incorporation by Reference and Precedence

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any City response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the City; and (5) the Contractor's response to the request for proposals.

29. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

30. Inspection

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

31. Inspection of Services

If this contract is for the purchase of services, the following terms shall apply.

A. Services, as used in this Article, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Agreement requires. The City has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services do not conform with the requirements of this Agreement, the City may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and

(2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

(1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or

(2) terminate the contract for default.

32. Insurance

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

A. Commercial General Liability insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

33. Impracticality of Performance

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

34. Invalid Term or Condition

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

35. Enforcement of Agreement

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

36. Patent, Copyright and Trade Secret Indemnification

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

- 1) give the Contractor prompt written notice within 48 hours of any claim;
- 2) allow the Contractor to control the defense of settlement of the claim; and
- 3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

- 1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;
- 2) replace or modify the product or service so that it becomes non-infringing;

or,

- 3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be

void as to any product or service modified by the City to the extent such modification is the cause of the claim.

37. Survival

The Agreement paragraphs titled “Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability” shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

38. Disclosure Regarding Responsibility

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, the Contractor learns that the Contractor’s disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor’s responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the

City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

39. Suspension, Delay or Interruption of Work

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

40. Notification

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City:
Youth and Family Services Division
Brittany Rodriguez
PO Box 909, Santa Fe, NM 87501 505-955-6913
bcrodriguez@santafenm.gov

To the Contractor:
TBD

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

To the Contractor: TBD

41. Succession

This Agreement shall extend to and be binding upon the successors and assigns of the parties.



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

CONTRACTOR:

CITY MAYOR/MANAGER

NAME

DATE: _____
TITLE

DATE _____
CRS# _____
Registration# _____
Federal UEI# _____

ATTEST:

KRISTINE BUSTOS MIHELICIC, CITY CLERK

CITY ATTORNEY’S OFFICE (REQUEST FOR APPLICATIONS ONLY):

Marcos Martinez
[Marcos Martinez \(May 2, 2023 10:09 MDT\)](#)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

EMILY OSTER, FINANCE DIRECTOR
2400122.510400
Org.Name/Org.#
ARPA Project Ledger: COM222400C

