

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF SANTA FE AND THE SANTA FE CIVIC HOUSING  
AUTHORITY**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is entered and made between SANTA FE CIVIC HOUSING AUTHORITY, hereafter referred to as the "Authority", and the CITY OF SANTA FE, hereafter referred as the "City," (collectively, the "Parties"), and is effective as of the date it is executed by both the City and the Authority, whichever occurs last.

**RECITALS**

**WHEREAS**, the 2014 Legislature of the State of New Mexico appropriated \$147,900 in state funds (the "Appropriation") "to make improvements for building code compliance, including purchase and installation of equipment, to the Villa Consuelo Senior Center in Santa Fe in Santa Fe County", identified as GOB Project A14-1261; and

**WHEREAS**, the improvements are intended to plan, design and construct the new kitchen facility; and

**WHEREAS**, the Villa Consuelo Senior Center complex is owned by the Authority, a non-profit corporation and an independent public body corporate and politic, created pursuant to State statute, the Municipal Housing Law, Section 3-45-1 *et seq.*, NMSA 1978; and

**WHEREAS**, for purposes of administration and as per Section 14, Article IX of the New Mexico Constitution (the "Anti-Donation Clause"), the Authority is considered a quasi-governmental agency; and

**WHEREAS**, for the foreseeable future, the Authority will continue to own the improvements and/or equipment to be paid for by the Appropriation; and

**WHEREAS**, on January 20, 2016, the City of Santa Fe and the State of New Mexico Aging and Long-Term Services Department (the "Department") fully executed a Grant Agreement to enable the City to serve as fiscal agent to this Appropriation, attached as **Attachment "A"**; and

**WHEREAS**, the Appropriation, this Agreement, and the City's role as fiscal agent for the Appropriation as described herein are in compliance with Section 14, Article IX of the New Mexico Constitution (the "Anti-Donation Clause") because all of the Appropriation will be expended on actual costs for improvement of publicly-owned property, for the benefit of City residents; and

**WHEREAS**, the Authority wishes to act as Project Manager for this project and shall provide project management services for the City to expend the Appropriation, as herein described; and

**WHEREAS**, the Department recognizes the Authority's ability to administer construction and renovation projects on behalf of a government entity; and

**WHEREAS**, the reversion date for this Appropriation is June 30, 2018; and

**WHEREAS**, the City and the Authority have determined that it is in the best interest of the welfare of the citizens of the City to enter into this MOU with the Authority for the Authority to act as Project Manager for this project.

### **1. Scope of Services**

- A. The Authority will act as Project Manager for the balance of General Obligation Bond (GOB) Project A14-1261 to make improvements for building code compliance, including planning, designing, and constructing a new kitchen facility in the Villa Consuelo Senior Center in Santa Fe.
- B. The balance of GOB Project A14-1261 is approximately \$136,706.16.
- C. The Authority shall submit periodic project reports to the City in accordance with Article 3 of this MOU.
- D. The City shall continue to execute the duties of fiscal agent between the City and the State of New Mexico per the General Obligation Bond Agreement A14-1261 (the "Grant Agreement"), attached as **Attachment "A"**.

### **2. Standard of Performance; Licenses**

- A. The Authority represents that it possesses the personnel, experience, and knowledge necessary to perform the services described under this MOU.
- B. The Authority agrees to obtain and maintain throughout the term of this MOU, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives, and subcontractors.

### **3. Project Reporting**

A. Monthly Project Manager Status Report. The Authority shall submit Project construction reports (Monthly Project Manager Status Reports) to the City's Grant Administrator by the 15<sup>th</sup> day of each month during the construction and implementation phase of the Project in order to facilitate the City's Capital Project Monitoring System (CPMS) and Grant Agreement reporting requirements. The Monthly Project Manager Status Reports shall detail for the preceding month; the Project construction work; the methods and procedures used to implement the Project; a description of any problems or delays that have occurred; and a detailed accounting of Project expenditures including, without limitation, the name of and financial obligation to subcontractors and vendors, and the total amount of the Appropriation expended to date. Monthly Project Manager Status Reports shall be submitted to the City until such time as the full account of the Appropriation has been expended, the Project's construction is complete, and the Project is accepted by the City.

B. Final Project Manager Report. Upon request by the City, the Authority shall submit the final report (Final Report) to the City's Public Works Director and the City's Grant Administrator within 10 days of the Project's reversion date, or within 10 days of early termination, whichever first

occurs. In the Final Report, the Authority shall certify that all Appropriation funds have been completed and funds expended in accordance with all of the requirements of this Agreement, and in compliance with all applicable state and regulatory requirements.

C. Requests for Additional Information/Project Inspection. The City may require additional information as deemed necessary and the City, the Department, and the State Department of Finance Administration shall be permitted by the Authority to conduct onsite inspections of the Project. The Authority shall respond to requests for information regarding the Project within a reasonable period of time.

#### **4. General Project Conditions**

A. Compliance with Law and Procurement Code. Appropriation funds must be spent in accordance with applicable laws, regulations, policies, and guidelines, including but limited to, the City's Procurement Code (a.k.a., the City's Purchasing Manual).

B. Certification of Non-Interest. By the time the Authority submits its first application for payment, the Authority shall certify to the City that no member, officer, or employee of the City (or its designees or agents), no member of the governing body of the locality of which the program is situated, and no other public official that exercises any functions or responsibilities with respect to the Project during his/her tenure (or for one year thereafter) shall have any interests (direct or indirect) in the Authority or any contract or subcontract, or the process thereof, for work to be performed in connection with the Project that is the subject of this MOU

C. The Authority shall certify that such a Certification of Non-Interest provision shall be included in all contracts and subcontracts in connection with the Project.

D. The Authority shall at no time convert any property acquired or developed with Appropriation funds to uses other than those specified for the Project under this MOU.

#### **5. Compensation**

There is no payment of services by the City to the Authority for any service by the Authority under this MOU. However, reimbursements will be paid by the City to the Authority for authorized expenses as stated in the Grant Agreement.

#### **6. Appropriations**

The terms of the MOU are contingent upon sufficient appropriations and authorization being made by the Parties for the performance of the MOU. If sufficient appropriations and authorization are not granted, this MOU shall terminate upon written notice. The decision as to whether sufficient appropriations and authorization are available shall be accepted by the Parties and shall be final.

## **7. Term**

This MOU shall become effective and binding when signed by both Parties and shall remain in effect unless terminated in writing, as indicated in Article 4, herein. The term of this MOU shall expire on June 30, 2018.

## **8. Termination**

The Appropriations are funded in whole or in part by funds made available under an Aging and Long-Term Services Department Grant Agreement. Should the Aging and Long-Term Services Department early terminate the Grant Agreement, the City of Santa Fe may early terminate this MOU by providing the Authority written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe's only liability shall be to reimburse the Authority for acceptable goods delivered and services rendered before the termination date.

## **9. Status of Authority; Responsibility for Payment of Employees and Contractors**

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

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

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

## **10. Confidentiality**

Any confidential information provided to or developed by the City in the performance of this MOU or obtained by the Authority shall be kept confidential and shall not be made available to any individual or organization by either Party without prior written approval of the other Party.

## **11. Conflict of Interest**

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

## **12. Assignment**

Neither the City nor the Authority shall assign or transfer any interest in the MOU or assign any claims for money due or to become due under this MOU without the prior approval of the other Party.

### **13. Release**

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

### **14. Insurance & Liability**

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

B. Authority shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Authority's employees throughout the term of this MOU. Authority shall provide the City with evidence of its compliance with such requirement.

### **15. Indemnification**

It is expressly understood and agreed by and between the Authority and the City that the Authority shall indemnify, hold harmless, and defend the City from all losses, damages, claims or judgments, including payment's of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever resulting from Authority's actions or inactions as a result of the MOU as well as the performance of the Authority's employees, agents, representatives and subcontractors.

It is the sole responsibility of the Authority to be in compliance with the law.

### **16. New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this MOU 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 MOU modifies or waives any provision of the New Mexico Tort Claims Act.

### **17. Third Party Beneficiaries**

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

### **18. Records and Audit**

The Authority shall maintain, throughout the term of this MOU and for a period of six years thereafter, all project records including but not limited to all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts, subcontracts advertisements, minutes of pertinent meetings, as well as detailed records that indicate the date, time and nature of services rendered and payments made. These records shall be subject to inspection upon request by the City, the Department, and the New Mexico State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments or improper expenditures.

### **19. Applicable Law**

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

### **20. Amendment**

This MOU shall not be altered, changed or amended except by instrument in writing executed by the Parties hereto.

### **21. Scope of Agreement**

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

### **22. Non-Discrimination**

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

shall abide by all federal, state and local laws, rules and regulations pertaining to equal employment opportunity.

### **23. Severability**

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

### **24. Notice**

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

If to the City:

City of Santa Fe:  
Attn: David A. Chapman  
P.O. Box 909  
Santa Fe, NM 87504-0909

If to Authority:

Santa Fe Civic Housing Authority  
664 Alta Vista St.  
Santa Fe, NM 87505

### **25. Additional Terms**

A. Subject to Grant Agreement. This MOU is subject to any and all relevant terms of the Grant Agreement, attached as Attachment "A". If there is a conflict between this MOU and the Grant Agreement, the most restrictive terms shall control.

B. State Appropriations. The terms of this MOU are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico (Legislature) for the performance of this MOU. If sufficient appropriations and authorization are not made by the Legislature, the City may immediately terminate this MOU by giving the Authority written notice of such termination. The City's decision as to whether sufficient appropriations are available shall be accepted by the Authority and shall be final. Authority hereby waives any rights to assert an impairment of contract claim against the City or the Department or the State of New Mexico in the event of immediate or early termination of this MOU by the City or the Department.

#### **C. General Conditions and Restrictions.**

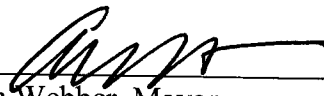
1. The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. For every contract or project in excess of sixty thousand dollars (\$60,000), the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be

prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. The Authority, contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment commuted at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

2. The Authority warrants that no officer or employee of the City or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this MOU, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this MOU. Authority shall incorporate into all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
3. Authority shall certify to the City that no funds have been paid or will be paid by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of this agency or body in connection with this MOU, the Appropriation, of the awarding of any Third Party Obligation. Authority shall incorporate into all subcontracts the language set forth in this paragraph prohibiting lobbying to be included in the award documents for all sub awards including but not limited to subcontracts, loans and cooperative agreements. Authority shall certify that such language has thus been incorporated.
4. Disposition of Property. Upon expiration or termination of the MOU, if either Party has property or funds in its possession belonging to the other, the same shall be returned in proportion to the Parties' original funds.

**IN WITNESS WHEREOF**, the Parties have executed this Memorandum of Understanding as of the date first written above.

City of Santa Fe

  
\_\_\_\_\_  
Alan Webber, Mayor

4/4/2018  
\_\_\_\_\_  
DATE

Santa Fe Civic Housing Authority

See Attached  
\_\_\_\_\_  
Ed Romero, Executive Director

\_\_\_\_\_  
DATE

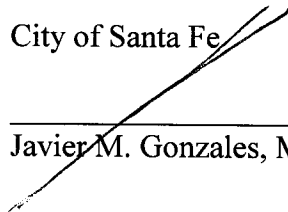


prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. The Authority, contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment commuted at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

2. The Authority warrants that no officer or employee of the City or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this MOU, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this MOU. Authority shall incorporate into all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
3. Authority shall certify to the City that no funds have been paid or will be paid by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of this agency or body in connection with this MOU, the Appropriation, of the awarding of any Third Party Obligation. Authority shall incorporate into all subcontracts the language set forth in this paragraph prohibiting lobbying to be included in the award documents for all sub awards including but not limited to subcontracts, loans and cooperative agreements. Authority shall certify that such language has thus been incorporated.
4. Disposition of Property. Upon expiration or termination of the MOU, if either Party has property or funds in its possession belonging to the other, the same shall be returned in proportion to the Parties' original funds.

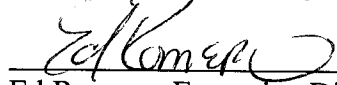
**IN WITNESS WHEREOF**, the Parties have executed this Memorandum of Understanding as of the date first written above.

City of Santa Fe

  
Javier M. Gonzales, Mayor

DATE

Santa Fe Civic Housing Authority

  
Ed Romero, Executive Director

2/21/18  
DATE

Attest:

Yolanda Y. Vigil  
Yolanda Y. Vigil, City Clerk  
CC mtg. 3/28/18

Approved as to Form:

Kelley A. Brennan  
Kelley A. Brennan, City Attorney

Approved:

Adam K. Johnson 4.3.18  
Adam K. Johnson, City Finance Director

32505.572970

Business Unit / Line Item

Villa Consuelo A14-1261 MOU between City & SFCHA

**ATTACHMENT “A”**

**Grant Agreement**

**ATTACHMENT “A”**

**Grant Agreement**

**STATE OF NEW MEXICO  
AGING AND LONG-TERM SERVICES DEPARTMENT  
FUND 89200 CAPITAL APPROPRIATION PROJECT**

**THIS AGREEMENT** is made and entered into as of this 20<sup>th</sup> day of January, 2016, by and between the Aging and Long-Term Services Department, P.O. Box 27118, New Mexico, 87502-7118, hereinafter called the "Department" or abbreviation such as "ALTSD", and the City of Santa Fe, hereinafter called the "Grantee". This Agreement shall be effective as of the date it is executed by the Department.

**RECITALS**

**WHEREAS**, in the Laws of 2014, Chapter 65, Section 10, Subsection 10A, Paragraph 162, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

**WHEREAS**, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

**WHEREAS**, State Agency on Aging (28-4-1 to 28-4-9 NMSA 1978: successor agency, Aging and Long-Term Services Department (9-23-1 to 9-23-12 NMSA 1978) may enter into grants and contracts as appropriated by law,

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

**ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE**

A. The project that is the subject of this Agreement is described as follows and is further described in Exhibit 4, Project Description. Grantee agrees to expend the funds in accordance with the Project Description:

A14-1261                      \$147,900                      APPROPRIATION REVERSION DATE: June 30, 2018  
Laws of 2014, Chapter 65, Section 10, Subsection 10A, Paragraph 162, one hundred forty-seven thousand nine hundred dollars (\$147,900) to make improvements for building code compliance, including purchase and installation of equipment, to the Villa Consuelo senior center in Santa Fe in Santa Fe County.

The Grantee's total reimbursements shall not exceed the appropriation amount one hundred forty-seven thousand nine hundred dollars (\$147,900), (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")<sup>1</sup>, if applicable, (\$0), which equals (\$147,900), (the "Adjusted Appropriation Amount").

<sup>1</sup> The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." Section 13-4A-4 NMSA 1978.

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I(A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I(A) is referred to collectively throughout the remainder of this Agreement as the "Project Description." The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

## **ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE**

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse<sup>2</sup> Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and
- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement ;
- (v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private Grantee or Fiscal Agent for Grantee, the sale, lease, license, or operating agreement:
  - a. must be approved by the applicable oversight entity or Fiscal Agent for Grantee (if any) in accordance with law; or
  - b. if no oversight entity or Fiscal Agent for Grantee is required to approve of the transaction, the Department must approve of the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to subparagraph (a) or (b) above, the Department may, in its discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures

---

<sup>2</sup> "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and  
(vi) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:

- a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party but prior to execution by the Grantee.
- b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
- c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.
- d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

### **ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES**

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee:	City of Santa Fe	City of Santa Fe
Name:	Javier Gonzales	Ron Vialpando
Title:	Mayor	Director-Division of Sr Svcs
Address:	P.O. Box 909, Santa Fe, NM 87504-0909	1121 Alto St., Santa Fe, NM 87504
Email:	<a href="mailto:jmgonzlacs@santafenm.gov">jmgonzlacs@santafenm.gov</a>	<a href="mailto:rjvialpando@santafenm.gov">rjvialpando@santafenm.gov</a>
Telephone:	505-955-6590	505-955-4710

Department: Aging and Long-Term Services Department  
Name: Rebecca Martinez  
Title: Capital Projects Bureau Chief  
Address: P.O. Box 27118, Santa Fe, NM 87502-7118  
Email: [rebeccas.martinez@state.nm.us](mailto:rebeccas.martinez@state.nm.us)  
Telephone: 505-476-4768  
FAX: 505-476-4836

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

#### **ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION**

A. As referenced in Article I(A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2018** the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* "expended" and an "expenditure" has *not* occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

#### **ARTICLE V. EARLY TERMINATION**

##### **A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement**

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.



Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(A).

**B. Early Termination Before Reversion Date Due to Non-appropriation**

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: de-authorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V(B).

**C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination**

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

**ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS**

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI(D) herein.

B. In the event of Suspension of this Agreement, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

**D. Corrective Action Plan in the Event of Suspension**

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI(A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

**ARTICLE VII. AMENDMENT**

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

**ARTICLE VIII. REPORTS**

**A. Paper Monthly Reports**

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Monthly Reports for the Project. Paper Monthly Reports shall be submitted on a form prescribed by the Department. The Paper Monthly and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days' advance written notice of any change to the Monthly Report format or content.

The Paper Monthly Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days' advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

**B. Paper Final Report**

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Monthly and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days' advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**C. Paperless Reporting**

In addition to the paper reports described in subparagraphs A and B of this Article, the Grantee shall report monthly and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The Department shall give Grantee a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to

report on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, which ever first occurs.

**D. Requests for Additional Information/Project Inspection**

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this Article VIII.

**ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES**

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request for Payment; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its discretion, agrees to do so and in accordance with any special conditions, see Exhibit 3, imposed by the Department.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing.

**B. Deadlines**

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) July 15 of each year for all unreimbursed expenditures incurred during the previous fiscal year; or
- (iii) Twenty (20) days from date of Early Termination; or
- (iv) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

**ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES**

- A. The following general conditions and restrictions are applicable to the Project:
- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).
  - (ii) The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
  - (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."
  - (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, and written approval.
  - (v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under

this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

- B. The Grantee hereby represents and warrants the following:
- (i) The Grantee has the legal authority to receive and expend the Project's funds.
  - (ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
  - (iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which it is subject.
  - (iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
  - (v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
  - (vi) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
  - (vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All sub recipients shall be required to certify accordingly.

**ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS;  
PROJECT RECORDS**

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the

total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

#### **ARTICLE XII. IMPROPERLY REIMBURSED FUNDS**

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

#### **ARTICLE XIII. LIABILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

#### **ARTICLE XIV. SCOPE OF AGREEMENT**

This Agreement constitutes the entire and exclusive agreement between the Grantee and ALTSD concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

#### **ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

The Grantee acknowledges and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe or the Department or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department."

**ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT**

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under an Aging and Long-Term Services Department Grant Agreement. Should the Aging and Long-Term Services Department early terminate the grant agreement, the City of Santa Fe may early terminate this contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe’s only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

**XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA.**

- A. Throughout the term of this Agreement, Grantee shall:
1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
  2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
  3. timely submit all required financial reports to its budgetary oversight agency (if any); and
  4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

- B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:
1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
  2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
  3. impose special grant conditions, see Exhibit 3, to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
  4. terminate this Agreement pursuant to Article V(A) of this Agreement.

**ARTICLE XVIII. SEVERANCE TAX BOND AND GENERAL OBLIGATION BOND  
PROJECT CLAUSES**

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole responsibility to determine through BOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (iii) the BOF may in the future impose further or different conditions upon the Project; (iv) all BOF conditions are effective without amendment of this Agreement; (v) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied.

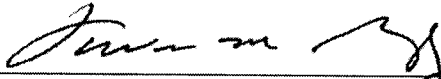
B. Grantee acknowledges and agrees that this Agreement is subject to the BOF's Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified.

[THIS SPACE LEFT BLANK INTENTIONALLY]



**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date of execution by the Department.

**GRANTEE**

  
\_\_\_\_\_  
Signature of Official with Authority to Bind Grantee

By: Javier M. Gonzales  
(Type or Print Name)

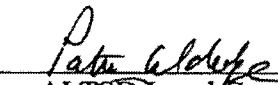
Its: Mayor  
(Type or Print Title)

12/14/15  
Date

**AGING AND LONG-TERM SERVICES DEPARTMENT**

By:   
\_\_\_\_\_  
AETSD Cabinet Secretary

Date: 1/20/16

By:   
\_\_\_\_\_  
AETSD Legal Counsel—Certifying Legal Sufficiency


Date: 1/14/2016

By:   
\_\_\_\_\_  
AETSD Chief Financial Officer

Date: 1.15.16

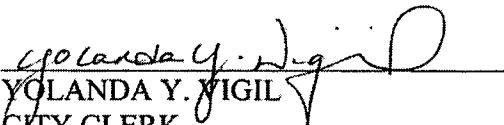
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:


  
JAVIER M. GONZALES, MAYOR

DATE: 9-1-15


ATTEST:

  
YOLANDA Y. VIGIL  
CITY CLERK  
CC mtg. 8/26/15

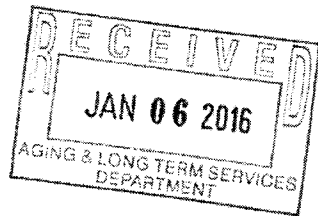
APPROVED AS TO FORM:

 7/20  
KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

 8-28-2015  
OSCAR S. RODRIGUEZ, FINANCE  
DEPARTMENT DIRECTOR

32505.572960/572970  
BUSINESS UNIT/LINE ITEM





**EXHIBIT 1**  
**ALTSD CAPITAL OUTLAY GRANT**  
**MONTHLY / FINAL REPORT FORM & REQUEST FOR PAYMENT**

MONTHLY REPORT ☐ PROJECT TITLE: \_\_\_\_\_ PAY REQUEST NO. \_\_\_\_\_  
(Due on the last day of the month)

Grantee: \_\_\_\_\_ Grant Number: \_\_\_\_\_ Reporting Period: \_\_\_\_\_ DATE: \_\_\_\_\_  
Grant Expiration Date: \_\_\_\_\_

Address: \_\_\_\_\_ City State Zip Preparer's Name & Phone Number: \_\_\_\_\_

Please provide a detailed status of project referenced above. Please check the box that would best explain the project phase.

Bonds Sold ☐ Plan / Design ☐ Bid Documents ☐ Construction/Improvements/Renovation in Process ☐  
Purchase in Process ☐ Substantial Completion ☐ Project Complete ☐ Other (Please specify in narrative section) ☐

Provide a project update and the anticipated timeline for commencement and completion for each phase. (Attach extra sheet if needed)

--

**REQUEST FOR PAYMENT**

**VENDOR INVOICE DETAIL** (Attach extra sheet if needed)

Grant Amount: \_\_\_\_\_  
AIPP Amount (if applicable) \_\_\_\_\_  
Funds Requested to Date: \_\_\_\_\_  
Amount Requested This Payment: \_\_\_\_\_  
Grant Balance: \_\_\_\_\_

Date of Invoice	Vendor Name	Amount of Invoice	Amount Applicable to This Grant
Amount Requested This Payment:			

**FINAL REPORT** ☐  
Fiscal Year Expenditure Period Ending  
(check one)  
(Jan-Jun) ☐ (Jul-Dec) ☐  
Fiscal Year \_\_\_\_\_

- ☐ **MONTHLY REPORT:** I hereby certify that the aforementioned Capital Outlay Project funds are being expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable requirements.
- ☐ **FINAL REPORT:** I hereby certify that the aforementioned Capital Outlay Project funds have been completed and funds were expended in accordance with all requirements of the Grant Agreement, and in compliance with all other applicable state/ regulatory requirements. The remaining balance is requested to be reverted to the appropriate funding source.
- ☐ **PROCUREMENT METHOD:** Grantee received approval from ALTSD and Notice of Obligation was issued and signed prior to reimbursement request.

**CERTIFICATION:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, are valid expenditures or actual receipts; and comply with NM State Procurement Code NMSA 13-1-21 through 13-1-199; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti-donation" clause.

Grantee Fiscal Officer Signature & Printed Name \_\_\_\_\_

Grantee Representative Signature & Printed Name (Preparer) \_\_\_\_\_

SWORN TO AND SUBSCRIBED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_.

Notary Public: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**STATE AGENCY USE ONLY**

I certify that the ALTSD Financial and vendor file information agree with the above submitted information.

ALTSD Accounting Manager \_\_\_\_\_ Date \_\_\_\_\_  
Vendor Code: \_\_\_\_\_ Fund No: \_\_\_\_\_

Bud Ref: \_\_\_\_\_ ALTSD Capital Outlay Bureau Chief \_\_\_\_\_ Date \_\_\_\_\_  
Class Code: \_\_\_\_\_

SBOF DRAW INFORMATION: Warrant # \_\_\_\_\_ Amount of Request: \_\_\_\_\_ Date: \_\_\_\_\_ Initials: \_\_\_\_\_

**EXHIBIT 2**  
**STATE OF NEW MEXICO - CAPITAL GRANT PROJECT**  
**NOTICE OF OBLIGATION TO REIMBURSE GRANTEE**

DATE: \_\_\_\_\_

TO: Department Representative: \_\_\_\_\_

FROM: Grantee Representative: \_\_\_\_\_

Signature

Chief Procurement Officer: \_\_\_\_\_

Signature

SUBJECT: Notice of Obligation to Reimburse<sup>1</sup> Grantee, Project Number: \_\_\_\_\_

As the designated representative of the Grantee, I certify that the following third party obligation executed, in writing, by the third party's authorized representative is in accordance with the NM State Procurement Code NMSA 13-1-30 or Local Procurement Code (if applicable); in addition, all indirect costs<sup>2</sup>, as defined by NM State Board of Finance are **NOT** included.

As the designated representative of the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative.

Third Party Obligation (includes purchase orders and contract) #: \_\_\_\_\_

Vendor or Contractor: \_\_\_\_\_

Third Party Obligation Amount: \_\_\_\_\_

Termination Date: \_\_\_\_\_

I certify that the State is issuing this Notice of Obligation to Reimburse<sup>1</sup> Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement Article X – Project Conditions and Restrictions: Representations and Warranties.

Grant Amount adjusted for AIPP if applicable: \_\_\_\_\_

The Amount of this Notice of Obligation to Reimburse: \_\_\_\_\_

The Total Amount of all Previously Issued Notices of Obligation: \_\_\_\_\_

The Total Amount of all Notices of Obligation to Reimburse as of this Date: \_\_\_\_\_

Department Representative: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<sup>1</sup>/ "Reimburse" as used throughout this Notice of Obligation to Reimburse includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of the Grant Agreement and are a valid liability of the Grantee.

<sup>2</sup>/ Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

**EXHIBIT 3**  
**ALTSD CAPITAL OUTLAY**  
**SPECIAL GRANT CONDITIONS**

The capital outlay oversight requires grantees' accounting methods and procedures, including their internal control framework, to be scrutinized, so as to safeguard State capital outlay appropriations and assets acquired with such appropriations.

This Capital Outlay Special Grant Condition(s) **Exhibit 3** is necessary pursuant to Executive Order 2013-006 (2.A.2.a-c, as applicable.), due to the Grantees' material weaknesses, significant deficiencies, or findings that raised concerns as to the ability to expend grant funds in accordance with applicable law in the organization's FY2014 audit. The Special Conditions identified below apply to grantee, the City of Santa Fe.

**Budget** - Provide documentation of approval of your current budget from DFA Local Government or other authoritative agency. Provide policies and procedures on who is responsible for and how annual budgets (expenditures and revenue) are established, monitored and adjusted. Provide a corrective action plan on how budget issues identified in your audit will be/have been addressed. Also include documentation on how staff responsible for budgeting is informed on budget policies and procedures.

The City of Santa Fe was required to, and has provided sufficient documentation regarding Budget, as referenced in the City of Santa Fe's 2014 Audit file. Therefore, the criteria to enter into this agreement have been met.

**EXHIBIT 4**  
**ALTSD CAPITAL OUTLAY**  
**PROJECT DESCRIPTION**  
**SCOPE OF WORK (SOW)**

*Laws of 2014, Chapter 65, Section 10, Subsection 10A, Paragraph 162, one hundred forty-seven thousand nine hundred dollars (\$147,900) to make improvements for building code compliance, including purchase and installation of equipment, to the Villa Consuelo senior center in Santa Fe in Santa Fe County.*

1. **Name of Grantee/ Fiscal Agent:** CITY OF SANTA FE
2. **Project Title:** SANTA FE VILLA CONSUELO SENIOR CENTER- CODE COMPLIANCE
3. **Grant Agreement Number:** A14-1261
4. **Background Narrative:** This project came about as the result of the need to come into compliance with federal, state, and local mandated regulations which requires design, planning, expansion, renovation, and equipment. Funding for A14-1261 is intended to plan, design, and construct the new kitchen facility. The City of Santa Fe, Division of Senior Services, currently operates five senior centers that service 10,000 clientele annually with an increasing senior population. Increased growth of this geographical area of the city of Santa Fe has led to higher numbers of seniors in need of assistance in terms of daily living, nutrition, transportation, and in-home support services such as bathing, housekeeping, Alzheimer's respite, etc. One of these senior centers is the Villa Consuelo Senior Center, located at 1200 Camino Consuelo. The Villa Consuelo Senior Center was constructed in 1973 and currently offers noontime congregate meals and activities for seniors residing within the Villa Consuelo Senior Housing Complex. Increased demand means that there has been reduced space and increased congestion in the community room that is also the dining area. As a result of these issues, it is requested that this project be funded. This center is in need of renovation consisting of an extension of the back kitchenette area. This back section would be increased by approximately 300 square feet to accommodate a new commercial kitchen. In addition, extension of the side of the building by approximately 400 square feet to contain and relocate the existing laundry area and craft area would free up necessary space for a larger dining room/activity room for the seniors. Funding of this project will allow us to construct a full service commercialized kitchen facility which will offer onsite cooked fresh meals (both congregate and Meals on Wheels) while being in compliance with the Environmental Department rules, regulations, and codes.
5. **Work Plan:** The funds will be used for the purpose of renovating, expanding, and improving the size and quality of the existing kitchen and dining area. The project is projected to begin in November 2015 and be completed by September 2016. As stated in the proposal, the projected total cost to complete all of this is \$147,900. Quotes were not obtained for the design and construction of the kitchen project. Deliverables of this project include the expansion of the Villa Consuelo kitchen and dining area which will allow for more effective and efficient preparation of higher numbers of hot, nutritious meals for the seniors residing at the Villa Consuelo Senior Center; increased sanitation and safety of prepared food; and expansion of programs and creation of new programs through Meals on Wheels delivery of home-delivered meals.

**6. Budget Detail:**

Project Cost Activities <i>(These are only examples. Insert activities specific to the proposed project.)</i>	Other Funds	State Funds
Architect/Engineer		10,000
Construction		137,900
Renovation		
Improvements for Code Compliance		
Equipment		
Vehicle Purchase		
Other Costs (specify)		
Totals		147,900

**7. Performance Measures:** Funds will be used to invest in expansion and renovation of the existing dining area. The City of Santa Fe's Capital Improvements Manager will oversee the construction of this project from start to finish. All commercialized kitchen equipment will be maintained and serviced via the City of Santa Fe, Property Control Division to include preventative maintenance and repairs. The site program manager will also oversee maintenance and necessary repairs for the commercial kitchen equipment and will inform Ron when a piece of equipment is in need of being repaired, replaced, or maintained.

**8. Results Expected:** As a result of this project being funded, the dining area of the Villa Consuelo Senior Center will be expanded and renovated which will ultimately lead to a higher output of meals and clientele served. Funding of this project will mean that the Villa Consuelo Senior Center can continue to serve not only current but also future senior clientele as the growing population of elderly in Santa Fe increases. In summary, as a result of the expansion and renovation of the dining area, more senior clientele will be served.

**9.**

Time Frame/ Milestones: <i>(These are only examples. Insert milestones specific to the proposed project.)</i>	<i>(Project the month &amp; year for each milestone)</i>
RFP/SOW Release	November 2015
Bid Closing	February 2016
Bid Award	April 2016
Construction Start Or Purchase/Install Equipment	May 2016
Project Completion & Review	August 2016
Submit <u>Request for Payment</u> Form and Supporting Documents to ALTSD/Capital Projects Bureau Project Closure/Archives Complete	September 2016

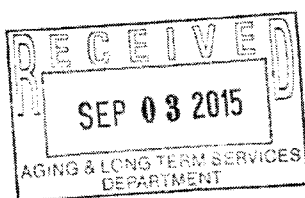
**10. Responsible Staff *(include Project Manager and Fiscal Contact):***

Name: Ron J. Vialpando  
 Title: Director of Division of Senior Services  
 Address: 1121 Alto Street, Santa Fe, NM, 87504-0909  
 Email: rvialpando@santafenm.gov  
 Phone: 505-955-4710



Name: Leann Valdez  
Title: Project Manager  
Address: 2651 Siringo Road Building E., Santa Fe, NM, 87504-0909  
Email: svaldez@santafenm.gov  
Phone: 505-955-5938

**NOTICE:** The Grant Application, if approved for funding by the ALTSD, and any attachments to the Grant Application are incorporated by reference into the scope of work. In the event of a conflict between any of the documents that are part of the Agreement, the ALTSD Cabinet Secretary, at the sole discretion of ALTSD, shall resolve that conflict.



[illegible]