

City of Santa Fe Contract
For Services

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and Davenport Construction Management, LLC. herein after referred to as the "Contractor."

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. "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.

D. "You" and "your" refers to Sub Surface Contracting, Inc. "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Work**

The Contractor shall provide professional sewer construction services for a City of Santa Fe Waste Water Administration Building (CIP #955A). Work will consist of the re-stucco of the administration buildings existing stucco, along with associated work to complete the re-stucco. See proposal marked Exhibit "A" attached hereto and made a part thereof from Davenport Construction Management, LLC., to include the following, but is not necessarily inclusive to the items listed below:

- A. Provide labor and material to install new STO stucco.
- B. Clean up all construction debris daily and properly dispose off-site.
- C. Secure any building permits and final inspections.
- D. Working hours will be during normal business hours on agreed upon weekdays.
- E. No breaches can be left in work area when not working on site.

3. **Compensation**

The total compensation under this Agreement shall not exceed \$42,792.63 including New Mexico gross receipts tax.

4. **Payment Provisions**

All payments under this Agreement are subject to the following provisions.

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **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 12/31/2018. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of Four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **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 Vendor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the City due to the Vendor's default. The Vendor 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 Vendor; 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 Vendor 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.

7. 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.*

8. 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.

9. **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.

10. **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.

11. **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.

12. **Non-Collusion**

In signing this Agreement, the Vendor/Contractor certifies the Vendor/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.

13. **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.

14. **Commercial Warranty**

The Vendor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Vendor 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. Vendor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **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.

16. **Records and Audit**

During the term of this Agreement and for three 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.

17. **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.

18. **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.

19. **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.

20. **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.

21. **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.

22. **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.

23. **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.

24. **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.

25. **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.

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, § 38-3-1 (G). 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.

3.1. **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. Workers Compensation (including accident and disease coverage) at the statutory limit. Employers liability: \$100,000.

B. Comprehensive general liability (including endorsements providing broad form property damage, personal injury coverage and contractual assumption of liability for all liability the Contractor has assumed under this contract). Limits shall not be less than the following:

- a. Bodily injury: \$1,000,000 per person /\$1,000,000 per occurrence.
- b. Property damage or combined single limit coverage: \$1,000,000.
- c. Automobile liability (including non-owned automobile coverage): \$1,000,000.
- d. Umbrella: \$1,000,000.

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:

- i. give the Contractor prompt written notice within 48 hours of any claim;
- ii. allow the Contractor to control the defense of settlement of the claim; and
- iii. 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:

- i. 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;
- ii. replace or modify the product or service so that it becomes non-infringing; or,
- iii. 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 of time 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.

Curt E. Temple, Project Administrator
City of Santa Fe
cetemple@santafenm.gov
505-955-5935
2651 Siringo Rd. Bldg. E
Santa Fe, NM 87505

To Contractor: Mitch Davenport
Davenport Construction Management, LLC.
141 Camino de las Crucitas
Santa Fe, NM 87501
505-660-7105

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.

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:


ERIK LITZENBERG, CITY MANAGER

DATE: 8/22/18

CONTRACTOR:

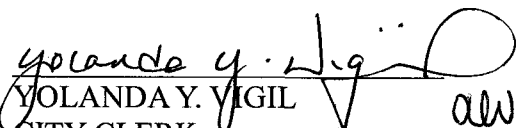

MITCH DAVENPORT, OWNER

DATE: 7/16/18

CRS# 03-053313-00-9

Registration # 18-00009749

ATTEST:


YOLANDA Y. VIGIL
CITY CLERK

APPROVED AS TO FORM:

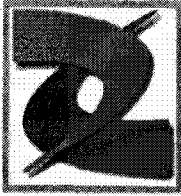
 7/11/18
CITY ATTORNEY

APPROVED:


FINANCE DIRECTOR

52452.520100

Business Unit Line Item



**Davenport
Construction
Management LLC**

141 Camino de las Crucitas
Santa Fe, NM 87501
Phone 505-660-7105
mitch@dcmm.com

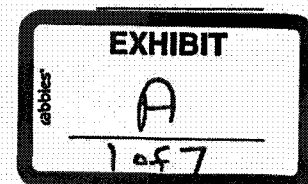
Proposal

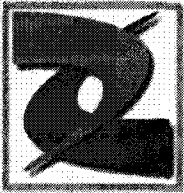
PROPOSAL# DCMCSF5
City of Santa Fe
May 15, 2018

TO:
Curt Temple
Project Manager
City of Santa Fe
Facilities Management Division

FOR:
Stucco repairs at the City of
Santa Fe Waste Water Treatment
Facility

DESCRIPTION	HOURS	RATE	AMOUNT
This is our proposal for the work described above and detailed in the attached Proposal Summary.			\$40,730.64
GRtax (.084375)			<u>\$2,061.99</u>
Inclusions; Re-stucco work on existing stucco'd surfaces only. OSHA Compliance Job site to kept in and left in a neat and clean condition			
Exclusions; Permits and fees Bond			
Assumptions; This proposal is good for 90 Days. Work can be done Monday Through Friday 7:00am through 6:00 PM			
TOTAL			\$42,792.63





**Davenport
Construction
Management LLC**

Proposal Summary DCMCSF5

May 14, 2018

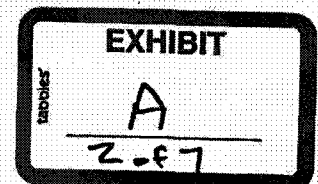
City of Santa Fe, Public Works Department, Facilities Division

Stucco Work

Waste Water Facility, 73 Paseo Rael, Santa Fe NM

Scope	Remove earth along entire perimeter at base of wall (approx. 4-6 inches)		
	Power wash using high pressure water to remove all loose and flaking stucco and continue removal of loose stucco by hand trowel method.		
	Apply STO Flexyl/STO Leveler (Elastomeric Cementitious waterproof mixture)		
	Embed fiberglass mesh for reinforcement		
	Apply STO adhesive for bonding purposes		
	Apply STO Flex "Fine" Elastomeric Stucco Color Coat Stucco system (20-year product life expectancy)		
	TIME FRAME: 2-WEEKS		
		Man Hrs	Rate
	Supervision and administration	8	60.48
	Stucco Work	sub	
	10% GC mark up per price agreement		
	Subtotal		
	Grtax Labor Only (60%)		0.084375
	Total		

Total
\$483.84
\$36,588.00
\$3,658.80
\$40,730.64
\$2,061.99
\$42,792.63





Project Proposal

Date: 02/13/17
Prepared For (Client): Mitch Davenport (Davenport Construction)
Location of Job: 73 Paseo Real, Santa Fe, NM
County: Santa Fe
Phone: 505.660.7105
Email: mitch@dcmmn.com
Job Type: Commercial

Specifications:

WASTE WATER TREATMENT PLANT BUILDING

To Entire Building:

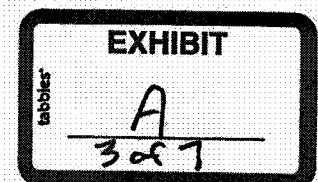
- Remove earth along entire perimeter at base of wall (approx. 4-6 inches)
- Power wash using high pressure water to remove all loose and flaking stucco and continue removal of loose stucco by hand trowel method.
- Apply STO Flexyl/STO Leveler (Elastomeric Cementitious waterproof mixture)
- Embed fiberglass mesh for reinforcement
- Apply STO adhesive for bonding purposes
- Apply STO Flex "Fine" Elastomeric Stucco Color Coat Stucco system (20-year product life expectancy)
- TIME FRAME: 3-4 DAYS

Total: \$36,588.00

Notes:

** Replacement costs for rotted or deteriorated material not included in specification above to be priced at \$4-\$10/sf under separate Change Request.

** SFS&R may require a core sample or moisture reading of the roof prior to entering into agreement. A core sample is required to more effectively determine roof condition. This procedure is performed at SFS&R's expense, and the client will be made aware of the results.





Terms and Conditions:

- ** 50% at start of the job and the balance due upon completion.**
- ** 4 Year Guarantee on all workmanship. This proposal is valid for 30 days from above date.**
- ** Plan/Permit costs are not included in this proposal. SFS&R will obtain required permits, and bill the client separately.**
- ** A 2% upcharge is applied for payments with credit card.**

Per this proposal, "warranty" refers to manufacturer's material, and "guarantee" refers to workmanship performed by SFS&R. All work is guaranteed to be completed as specified and in a workmanlike manner according to standard construction practices. Any alteration or deviation from specifications involving extra cost will be executed only upon written orders and will become an extra charge over and above estimated cost. All agreements are contingent upon strikes, accidents, weather or delays beyond our control. Client to carry homeowner's, renter's, fire, tornado and other necessary insurance.

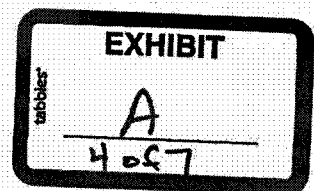
Acceptance of Proposal: The above prices, specifications and conditions are satisfactory and are hereby accepted. Client hereby authorizes commencement of work as specified. Payment is agreed and will be made as outlined above.

Client Signature

Date

SFS&R Authorized Signature

Date





Limitations of Liability - Provisions of Project Proposal

Santa Fe Stucco and Roofing shall be referred to as SFS&R throughout the remainder of this contract. Signatory is referred to as the "Client".

With signature of this proposal, client agrees to and acknowledges that he/she has read and understands the contract, including limitations and provisions of liability, and that he/she agrees to these provisions and limitations of liability as permissible by law. Client agrees to have work performed as specified in the proposal, for the amount agreed by both client and SFS&R. The client must agree to negotiated terms and fees with SFS&R for said work. Client agrees to pay 50% of fees upon commencement of work, and the balance of fees immediately upon completion of work. SFS&R agrees to carry all required licenses, liability insurance, and Workman's Compensation insurance as required by law. Signature of this proposal represents a legally binding agreement between the client and SFS&R, as per the terms of this proposal.

Guarantee Limitation: Workmanship Guarantee as specified on page 1 is transferrable provided that SFS&R is apprised of the transfer request and inspects the project before the transfer request is completed. This guarantee is null and void if additional work is performed or damage is caused by another entity after the project is completed. Specifically excluded from the Guarantee are damages to other parts of the building, and to building contents caused by: fire, peak gust wind exceeding 90 mph, lightning, severe hail, severe ice/snow, or structural failures from other causes. When work has been damaged by any of the foregoing causes, Guarantee shall be null and void until such damage has been repaired by SFS&R and until cost and expense thereof has been paid in full by client or by another responsible party so designated. This guarantee shall be void due to subsequent alterations made to the roof including installation of utility work, antennas, solar panels, satellite dishes, HVAC cooling/heating systems, fan housings, sign frames or other fixtures that cause damage to the roof. Guarantee and warranty are null and void if roof is used for storage or recreational purposes. SFS&R is responsible for damage to work covered under the Guarantee but is not liable for consequential or incidental damages to building or building contents resulting from leaks, or faults or defects of work. Liability in jurisdictions that do not allow exclusion of limitation of incidental or consequential damages shall be limited to the extent permitted by law. Be advised that any new roof system requires periodic maintenance in order for manufacturer's warranty to remain enforced as per manufacturer specifications.

Guarantee is based on visual inspection of worksite. Upon commencement of work, client must be apprised of the potential that SFS&R may uncover or learn of unforeseen or unknown defects that will affect our ability to guarantee or warrant work or perform work stated in this proposal within the agreed upon price. There are two remedies for this occurrence: a change order for work and price is transacted; or work may be performed without guarantee or warranty in effect. Client agrees that any additional work, above and beyond work that is outlined in the Specifications, constitutes a Change Request from the original proposal.

Cancellation/Early Termination Fees: Cancellation of this contract is permissible up to 72 hours -3 work days— prior to agreed start of work (start date without cause or harm. Formal written notification and delivery of cancellation request is required. Notice of cancellation of work within 72 hours of the start date is subject to the following terms: cancellation fee is equal to 10% of the total contract price plus any amounts paid for specially ordered products that cannot be restocked by SFS&R or its suppliers with a 15% restocking charge. Non-returnable/special order products will be purchased by the client, and become the property of the client upon receipt of payment. Client acknowledges this fee as liquidated damages for SFS&R's reimbursement of expenses and lost opportunity costs. Contracts will not be cancelled until cancellation fees are paid in full.

Drainage Limitation: The industry standard definition of improper roof drainage, or "ponding water", or "pooling water", is water that remains over 1/2 inch deep on the roof surface for more than 48 hours after initial exposure to liquid water or after the passing of a storm. Remaining water after exposure that is less than 1/2 inch deep and/or present for less than 48 hours is not considered "standing", "pooling", or "ponding", and in such case the roof is considered to have proper drainage. Snow, ice, and other forms of water in a non-liquid form cannot be considered to be in a "standing", "pooling", or "ponding" state, and as such, no claims are or can be made by SFS&R regarding the drainage of water in a non-liquid state. SFS&R shall be afforded reasonable time to inspect, observe, and verify any claim of improper drainage, "standing" or "ponding" water, and shall be given the opportunity to correct any legitimized claim as per the good faith agreement between SFS&R and the client. SFS&R is not responsible and cannot be held responsible for any losses or damages, whether direct, indirect, special, consequential, incidental or punitive, by the client or third-party claimant, caused by improper drainage (as specified above), unless the Specification (p.1) states that SFS&R provides the slope or drainage or specific corrections to existing slope or drainage. Liability in jurisdictions that do not allow exclusion or limitation of incidental or consequential damages shall be limited to the extent permitted by law.

Limitation of Hazardous Substance Liability: This Limitation of Hazardous Substance Liability protects SFS&R from claims resulting from mold, asbestos, and other contaminants present on or in the client's dwelling prior to SFS&R's arrival. SFS&R is not responsible for mold, asbestos or other contaminants on or in other parts of the property or hidden within the structure. SFS&R is only responsible for the integrity of roofing, stucco or other services as described in the Specifications section of this proposal. SFS&R does not perform mold or asbestos mitigation services and makes no claim of any expertise or ability to remediate for any losses or damages, whether direct, indirect, special, consequential, incidental or punitive to the client or to any third-party claimant, for mold, asbestos, or contaminant related claims or for mold mitigation services. If SFS&R determines such substances present a hazard at the worksite and to SFS&R employees, we shall have the right and obligation to discontinue work until all material is removed from the job site. Such stoppage of work will not constitute a breach of contract by SFS&R.

Notice: The State of New Mexico requires, under penalty of law, that the client be informed of the following Disclosure Statement: Neither the Contractor's License Bond nor the license bond issued under clause 60-13-19 of the Construction Industries Licensing Act protects the consumer if the contractor defaults on this contract.

Marketing: SFS&R reserves right to display yard signage during period of work in progress. Before and After photos may also be taken and used for operations, marketing or promotional purposes through social media, on company web site, and in literature.

Utility Usage: SFS&R is not responsible for additional costs resulting from any incremental deviation in utility usage, whether it be for water, electricity, gas, or any other utility provided substance or service.

SFS&R will not be responsible for damage due to infestation of any kind.

3221 Richards Ln, Ste. A, Santa Fe, NM 87507 505-690-6215 www.sfgreenroof.com NM Lic. 378362, Bon

The content of this document is proprietary and confidential. Through acceptance, recipient agrees not to copy, otherwise disclose this document or its contents without the direct consent of SFS&R.

EXHIBIT

tabler

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Late Payment/Service Charges: Any funds owed greater than 30 days from the Completion Date are subject to a service charge of 3% per month on the unpaid balance until paid in full.

Notice of Right to Claim a Lien: In accordance with the terms and provisions of "Construction Lien Law", (Sections 48-2-1 through 48-2-19 NMSA), SFS&R reserves the right to claim a lien against the new or improved property pursuant to this contract within 120 days of completion of the project for any unpaid portion(s) of the contract for failure to pay.

Arbitration: Any issue or claim arising from or related to this proposal, professional relationship, or a breach thereof shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as amended by the following: (a) there shall be a single neutral arbitrator, and (b) the location for arbitration shall be Santa Fe, New Mexico. The judgement upon the award rendered by the arbitrator may be entered in the court having jurisdiction thereof. By agreeing to arbitration, the parties understand that they waive their rights to a jury trial or a trial before a court of law.

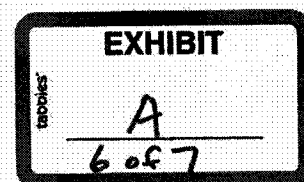
Applicable Law: This proposal is governed by the laws of the State of New Mexico.

Client Signature

Date

SFS&R Authorized Signature

Date



RENOVATIONS FOR:

CITY OF SANTA FE

AGENCY STAMP

SIGNATURE

ARCHITECT/ENGINEER

XXXXXX-XXXXXX

XXXXXX-XXXXXX

505-XXX-XXXX

CONTRACTOR

SANTA FE STUCCO AND ROOFING

3221 RICHARDS LANE SUITE A

SANTA FE, NM 87507

505-690-6215

REVISION NOTES

DATE

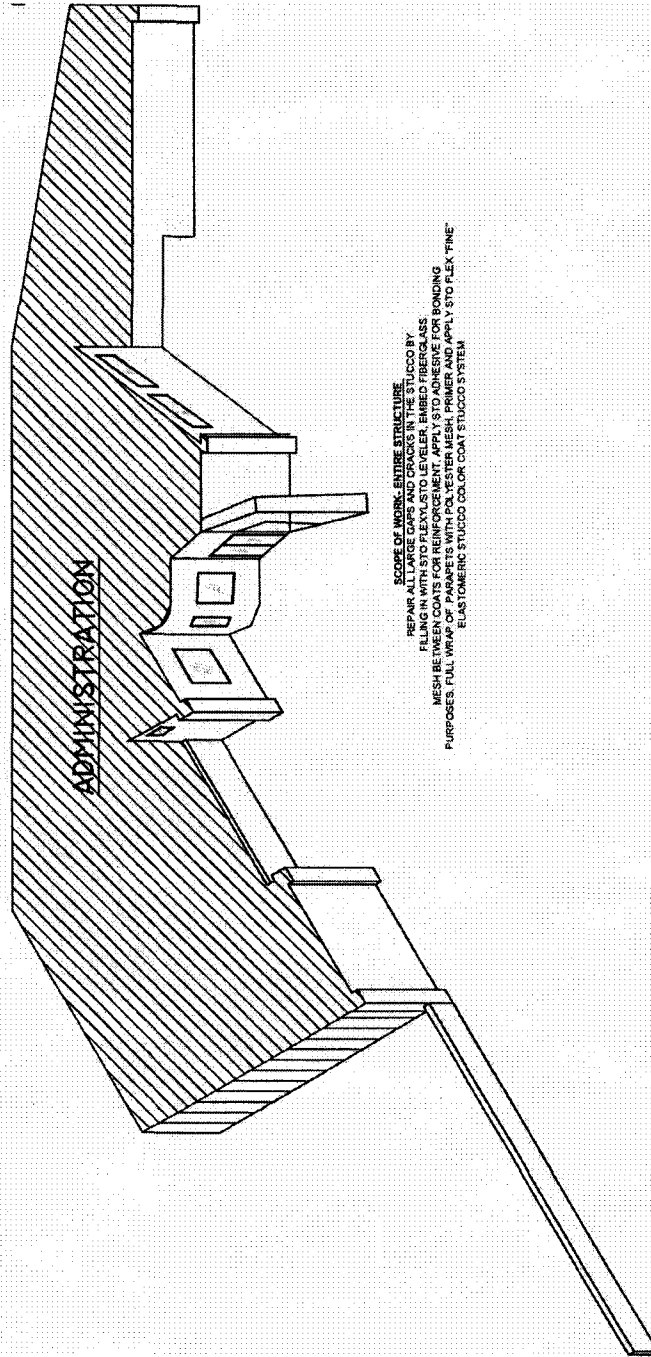
FEB. 13, 2017

SHEET INFORMATION

WASTE WATER
TREATMENT
PLANT

SHEET NUMBER

A2



SCOPE OF WORK: ENTIRE STRUCTURE
REPAIR ALL CRACKS AND CORROSION IN STUCCO BY
FILLING IN WITH STUCCO, STUCCO REPAIR FIBERGLASS
MESH BETWEEN COATS FOR REINFORCEMENT. APPLY STUCCO ADHESIVE FOR BONDING
PURPOSES. FULL WRAP OF PARAPETS WITH POLYESTER MESH, PRIMER AND APPLY STUCCO FINE
ELASTOMERIC STUCCO COLOR COAT STUCCO SYSTEM

SCOPE OF WORK

STUCCO SYSTEM:

NEW "STUCCO" SYNTHETIC STUCCO SYSTEM
OVER EXISTING STUCCO SYSTEM. OLD
SYSTEM TO BE REPAIRED AND NEW
COLOR COAT SYSTEM APPLIED TO
MATCH EXISTING.

BUILDING PLAN

SCALE: NTS



EXHIBIT

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