

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **LOUIS BERGER U.S., INC.**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

A. The Contractor shall provide engineering services for the City in connection with the Arroyo Chamiso Crossing (the "Project") comprised of the following tasks thereunder:

PHASE I – LOCATION STUDY (ALTERNATIVES ANALYSIS)

Tasks:

1. Alignment Study
2. Environmental Investigation and Documentation
3. Location Survey & Mapping
4. Coordination
5. Public Involvement

The forgoing phase of the Project and specific tasks thereunder are more fully described in Exhibit "A" attached hereto and made a part hereof

B. **Performance Measures.**

Contractor shall substantially perform the following: *(As Detailed in Attached Exhibit "A")*

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the Lump Sum rate of two hundred fifty-seven thousand four hundred eighty dollars and eleven cents (\$248,274.11), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (\$20,948.13) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (269,222.24). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein. Payment shall be made in accordance with the Engineering Cost Summary for each phase, Exhibit "B", attached hereto.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate four (4) years after Date of Execution unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four (4) years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; 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. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. *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.*

B Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without

written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

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The terms of this Agreement 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 City Council, this Agreement shall terminate immediately 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.

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The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state 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 reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. 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.

7. 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.

8. 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.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance

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

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

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.

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 Article 12 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 Article 12 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 Article 12 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.

13. 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 Article 4 herein, or to agree to the reduced funding.

14. 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 Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

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 illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures 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.

17. 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 Section 38-3-1 (G) NMSA 1978. 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.

18. 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.

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

20. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. 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

21. Indemnification.

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

22. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

23. 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.

24. 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.

25. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: John J. Romero, P.O. Box 909 Market St Suite 200, Santa Fe, NM 87504,
jjromero1@ci.santa-fe.nm.us.

To the Contractor: Louis Berger Group, Inc., 2019 Galisteo St., Unit M-1, Santa Fe, NM 87505, rrotto@louisberger.com.

26. Authority.

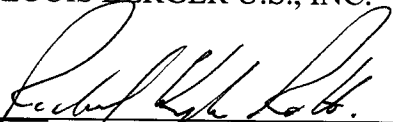
If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

CITY OF SANTA FE:

CONTRACTOR:
LOUIS BERGER U.S., INC.


ALAN WEBBER, MAYOR

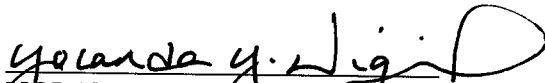

RICHARD ROTTO, PE/ASSOCIATE VP

DATE: 3/5/19

DATE: 3/6/2019.
CRS# 03-363455-00-6

Registration # 18-00148875

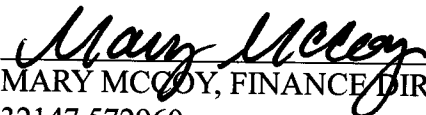

ATTEST:

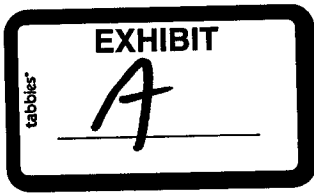

YOLANDA Y. VIGIL, CITY CLERK
cc mtg. 2/27/2019

APPROVED AS TO FORM:

 11/30
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:


MARY MCCOY, FINANCE DIRECTOR
32147.572960
Business Unit Line Item 



**Arroyo de Los Chamisos
RFP #'18/45/P**

**PROPOSED SCOPE OF WORK
FOR PHASE 1 - LOCATION STUDY
INITIAL AND DETAILED EVALUATION OF ALTERNATIVES**

This proposed scope of work covers the Location Study (Phase 1-A & 1-B) of the proposed project. The level of effort for Preliminary Design (Phase II), Final Design (Phase III), and Construction Services (Phase IV) will be identified when the scope of the potential construction activities are established after completion of the Location Study Phases.

PROPERTY OWNERSHIP, LOCATION SURVEY & MAPPING

The Consultant will prepare preliminary property ownership maps of the project area along Richards Avenue between Rodeo Road and Cerrillos Road. The preliminary property ownership map will be developed by researching vesting documents and City of Santa Fe GIS data. See attached proposal from Bohannon Huston, Inc.

The Consultant will conduct a location survey to develop base mapping of the project area. See attached proposal from Bohannon Huston, Inc. (BHI).

PUBLIC INVOLVEMENT

The Consultant will develop and initiate a public involvement program. The public involvement program will include:

- Two public meetings;
- Agency and Stakeholder Coordination

The public meetings will be held to solicit public input, the first during Phase IA - Initial Evaluation of Alternatives, and the second during the Phase IB - Detailed Evaluation of Alternatives.

Local stakeholders may include the City of Santa Fe Fire and Police Departments, Santa Fe County, New Mexico Game and Fish, New Mexico State Forestry, New Mexico Energy, Minerals and Natural Resources Department, neighborhood associations, local landowners, local residents and local community leaders. Every effort will be made to encourage participation in the public meetings.

Outreach efforts will include securing a venue and advertising for the public meetings.

See attached proposal from BHI.

DETAILED INVENTORY OF EXISTING CONDITIONS

An evaluation will be made of the geometry and physical characteristics of the existing roadway network, geography and drainage patterns between the approximate limits of the Richards Avenue/Rodeo Road area and the Richards Avenue/Cerrillos Road area. This will facilitate a determination of substandard physical features based on a comparison with current standards. Existing substandard conditions will provide a basis for needed improvements. As part of the evaluation, accident statistics will be reviewed.

TRANSPORTATION NEEDS ANALYSIS

This analysis has several parts including:

- An evaluation of existing traffic volumes;
- A forecast model for traffic demand modeling; and
- An evaluation of the need for improvements based on projected traffic volumes.

Evaluation of Existing Traffic Volumes

The Consultant will take traffic counts at four intersections:

- Richards Avenue and Rodeo Road;
- Richards Avenue and Siringo Road;
- Richards Avenue and Cerrillos Road;
- Rodeo Road and Cerrillos Road.

These traffic volumes will be summarized by the consultant to establish a baseline condition. Existing intersection levels of service will be determined. See attached proposal from BHI.

Determination of Future Traffic Demand

The Consultant will coordinate with the Santa Fe Metropolitan Planning Organization (SFMPO) and their traffic-modeling consultant to utilize the regional traffic demand model to develop the future year traffic forecasts for the project. See attached proposal from BHI.

Evaluation of the Need for Improvements Based on Projected Traffic Volumes

The No-Build and Build Scenarios peak hour traffic volumes will be evaluated and compared with respect to:

- Existing (substandard) geometric conditions;
- Level of service/potential for congestion;
- Travel time and travel distance savings;
- Impact on Richards Avenue, Rodeo Road and Cerrillos Road; and,
- Impact on local roadways.

See attached proposal from BHI.

DEVELOP PURPOSE AND NEED

Richards Avenue is a north-south corridor extending from the southern tip of Rancho Viejo to the northern tip of Agua Fria, disjoined since inception at one location by the physical deterrent posed by the Arroyo de Los Chamisos. As a result, north-south bound traffic needing to cross the Arroyo de Los Chamisos must pass through adjacent neighborhood roads including Zafarano Road, Avenida de las Companas, Camino Carlos Rey, and Governor Miles Road.

Past efforts focused on extending the Richards Avenue Corridor on the obvious alignment across the arroyo and vacant lands to conjoin the northern and southern segments. The City of Santa Fe seeks to evaluate other possible options to extend Richards Avenue in addition to the previously identified

alignment. A minimum of three alignments are to be evaluated with a goal of providing the City with a preferred alternative to extend Richards between Rodeo Road and Cerrillos Road.

Several purposes have been preliminarily identified as a basis for the crossing of the Arroyo de Los Chamisos including:

- Improve emergency access throughout the region;
- Provide a new all-weather crossing of the Arroyo de Los Chamisos;
- Reduce travel times between the Santa Fe Community College District and the City of Santa Fe; and
- Reduce traffic congestion on local streets including Zafarano Road, Avenida de las Campanas, Camino Carlos Rey, and Governor Miles Road.

A purpose and need will be defined for possible improvements based on:

- Discussions with City representatives and area stakeholders; and,
- The evaluation of the need for improvements based on projected traffic volumes, travel times and emergency access.

The purpose and need will be reviewed by the City of Santa Fe before presentation to the public for comment.

IDENTIFY EXISTING ENVIRONMENTAL CONDITIONS

In this task, existing environmental conditions will be identified to serve as a baseline for comparison of preliminary alternatives. Existing environmental conditions include:

- Demographics;
- Land use;
- Community facilities;
- Cultural resources;
- Hazardous materials sites;
- Natural resources;
- Biological resources; and,
- Section 4 (f) properties.

Only regional air quality parameters will be considered. Potential noise impacts will not be considered.

Cultural, biological and natural resources will be preliminarily assessed through desktop records research methods.

See attached proposal from BHI.

IDENTIFY VIABLE ALTERNATIVES

A range of improvement alternatives to meet the purpose and need will be identified. The alternatives may range from simple enhancements to changes to the roadway network and may include both roadway extensions and local street improvements.

Alternatives will be sketched for review and discussion with the City and area stakeholders. After review, alternatives will be presented at a public meeting to solicit public comments.

CITY OF SANTA FE

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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.

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 Article 12 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 Article 12 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 Article 12 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.

13. 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 Article 4 herein, or to agree to the reduced funding.

14. 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 Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

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 illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures 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.

17. 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 Section 38-3-1 (G) NMSA 1978. 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.

18. 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.

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

20. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. 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

21. Indemnification.

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

22. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

23. 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.

24. 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.

25. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: John J. Romero, P.O. Box 909 Market St Suite 200, Santa Fe, NM 87504,
jjromero1@ci.santa-fe.nm.us.

To the Contractor: Louis Berger Group, Inc., 2019 Galisteo St., Unit M-1, Santa Fe, NM 87505, rrotto@louisberger.com.

26. Authority.

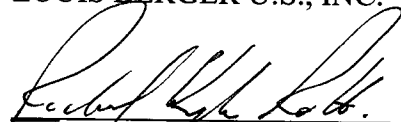
If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

CITY OF SANTA FE:

CONTRACTOR:
LOUIS BERGER U.S., INC.


ALAN WEBBER, MAYOR

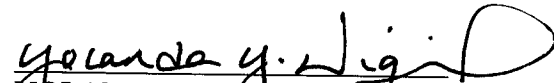

RICHARD ROTTO, PE/ASSOCIATE VP

DATE: 3/5/19

DATE: 3/6/2019.
CRS# 03-363455-00-6

Registration # 18-00148875

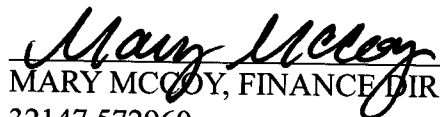
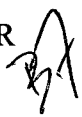
ATTEST:

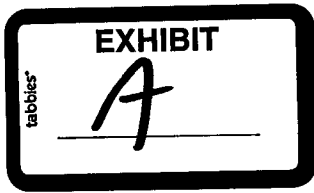

YOLANDA Y. VIGIL, CITY CLERK
cc mtg. 2/27/2019

APPROVED AS TO FORM:

 11/30
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:


MARY MCCOY, FINANCE DIRECTOR
32147.572960
Business Unit Line Item 



Louis Berger

**Arroyo de Los Chamisos
RFP #'18/45/P**

**PROPOSED SCOPE OF WORK
FOR PHASE 1 - LOCATION STUDY
INITIAL AND DETAILED EVALUATION OF ALTERNATIVES**

This proposed scope of work covers the Location Study (Phase 1-A & 1-B) of the proposed project. The level of effort for Preliminary Design (Phase II), Final Design (Phase III), and Construction Services (Phase IV) will be identified when the scope of the potential construction activities are established after completion of the Location Study Phases.

PROPERTY OWNERSHIP, LOCATION SURVEY & MAPPING

The Consultant will prepare preliminary property ownership maps of the project area along Richards Avenue between Rodeo Road and Cerrillos Road. The preliminary property ownership map will be developed by researching vesting documents and City of Santa Fe GIS data. See attached proposal from Bohannon Huston, Inc.

The Consultant will conduct a location survey to develop base mapping of the project area. See attached proposal from Bohannon Huston, Inc. (BHI).

PUBLIC INVOLVEMENT

The Consultant will develop and initiate a public involvement program. The public involvement program will include:

- Two public meetings;
- Agency and Stakeholder Coordination

The public meetings will be held to solicit public input, the first during Phase IA - Initial Evaluation of Alternatives, and the second during the Phase IB - Detailed Evaluation of Alternatives.

Local stakeholders may include the City of Santa Fe Fire and Police Departments, Santa Fe County, New Mexico Game and Fish, New Mexico State Forestry, New Mexico Energy, Minerals and Natural Resources Department, neighborhood associations, local landowners, local residents and local community leaders. Every effort will be made to encourage participation in the public meetings.

Outreach efforts will include securing a venue and advertising for the public meetings.

See attached proposal from BHI.

DETAILED INVENTORY OF EXISTING CONDITIONS

An evaluation will be made of the geometry and physical characteristics of the existing roadway network, geography and drainage patterns between the approximate limits of the Richards Avenue/Rodeo Road area and the Richards Avenue/Cerrillos Road area. This will facilitate a determination of substandard physical features based on a comparison with current standards. Existing substandard conditions will provide a basis for needed improvements. As part of the evaluation, accident statistics will be reviewed.

TRANSPORTATION NEEDS ANALYSIS

This analysis has several parts including:

- An evaluation of existing traffic volumes;
- A forecast model for traffic demand modeling; and
- An evaluation of the need for improvements based on projected traffic volumes.

Evaluation of Existing Traffic Volumes

The Consultant will take traffic counts at four intersections:

- Richards Avenue and Rodeo Road;
- Richards Avenue and Siringo Road;
- Richards Avenue and Cerrillos Road;
- Rodeo Road and Cerrillos Road.

These traffic volumes will be summarized by the consultant to establish a baseline condition. Existing intersection levels of service will be determined. See attached proposal from BHI.

Determination of Future Traffic Demand

The Consultant will coordinate with the Santa Fe Metropolitan Planning Organization (SFMPPO) and their traffic-modeling consultant to utilize the regional traffic demand model to develop the future year traffic forecasts for the project. See attached proposal from BHI.

Evaluation of the Need for Improvements Based on Projected Traffic Volumes

The No-Build and Build Scenarios peak hour traffic volumes will be evaluated and compared with respect to:

- Existing (substandard) geometric conditions;
- Level of service/potential for congestion;
- Travel time and travel distance savings;
- Impact on Richards Avenue, Rodeo Road and Cerrillos Road; and,
- Impact on local roadways.

See attached proposal from BHI.

DEVELOP PURPOSE AND NEED

Richards Avenue is a north-south corridor extending from the southern tip of Rancho Viejo to the northern tip of Agua Fria, disjointed since inception at one location by the physical deterrent posed by the Arroyo de Los Chamisos. As a result, north-south bound traffic needing to cross the Arroyo de Los Chamisos must pass through adjacent neighborhood roads including Zafarano Road, Avenida de las Companas, Camino Carlos Rey, and Governor Miles Road.

Past efforts focused on extending the Richards Avenue Corridor on the obvious alignment across the arroyo and vacant lands to conjoin the northern and southern segments. The City of Santa Fe seeks to evaluate other possible options to extend Richards Avenue in addition to the previously identified

alignment. A minimum of three alignments are to be evaluated with a goal of providing the City with a preferred alternative to extend Richards between Rodeo Road and Cerrillos Road.

Several purposes have been preliminarily identified as a basis for the crossing of the Arroyo de Los Chamisos including:

- Improve emergency access throughout the region;
- Provide a new all-weather crossing of the Arroyo de Los Chamisos;
- Reduce travel times between the Santa Fe Community College District and the City of Santa Fe; and
- Reduce traffic congestion on local streets including Zafarano Road, Avenida de las Campanas, Camino Carlos Rey, and Governor Miles Road.

A purpose and need will be defined for possible improvements based on:

- Discussions with City representatives and area stakeholders; and,
- The evaluation of the need for improvements based on projected traffic volumes, travel times and emergency access.

The purpose and need will be reviewed by the City of Santa Fe before presentation to the public for comment.

IDENTIFY EXISTING ENVIRONMENTAL CONDITIONS

In this task, existing environmental conditions will be identified to serve as a baseline for comparison of preliminary alternatives. Existing environmental conditions include:

- Demographics;
- Land use;
- Community facilities;
- Cultural resources;
- Hazardous materials sites;
- Natural resources;
- Biological resources; and,
- Section 4 (f) properties.

Only regional air quality parameters will be considered. Potential noise impacts will not be considered.

Cultural, biological and natural resources will be preliminarily assessed through desktop records research methods.

See attached proposal from BHI.

IDENTIFY VIABLE ALTERNATIVES

A range of improvement alternatives to meet the purpose and need will be identified. The alternatives may range from simple enhancements to changes to the roadway network and may include both roadway extensions and local street improvements.

Alternatives will be sketched for review and discussion with the City and area stakeholders. After review, alternatives will be presented at a public meeting to solicit public comments.

INITIAL EVALUATION OF ALTERNATIVES

Based on the initial engineering analysis and input from the City and the public, a preliminary evaluation of alternatives will be made. Factors to be considered include:

- Meeting purpose and need;
- Operational characteristics;
- Right-of-way;
- Potential environmental impacts and social factors;
- Constructability;
- Physical constraints such as drainage and topography; and,
- Cost.

A comparison matrix of alternatives will be prepared which will also include the No-Build Alternative. The comparison analysis will be summarized for inclusion in a Phase 1-A Report. Alternatives recommended for detailed evaluation will be identified.

DETAILED EVALUATION OF ALTERNATIVES

Based on the findings of the Initial Evaluation of Alternatives and input from the City and the public, a Detailed Evaluation of Alternatives will be made. Each of the alternatives identified for detailed evaluation will be drawn with a sufficient level of detail to:

- Illustrate the principal characteristics of proposed improvements;
- Provide a basis for engineering and environmental analysis; and,
- Provide a basis for a preliminary cost estimate.

The traffic forecasts will be refined to illustrate the impact of each alternative on traffic characteristics.

A Phase 1-B Detailed Evaluation of Alternatives Report will be prepared which describes and contrasts the alternatives. Advantages and disadvantages of each alternative will be identified. The alternatives will be discussed with the City and area stakeholders and presented at a public meeting for comment. The best alternative(s) will be recommended for detailed environmental investigation and documentation.

QUALITY CONTROL PLAN

The Consultant will prepare a quality control plan outlining procedures to be followed to assure quality during the course of the project.