AGREEMENT BETWEEN THE
NEW MEXICO DEPARTMENT OF INFORMATION
TECHNOLOGY AND THE CITY OF SANTA FE
FOR EQUIPMENT HOSTING

This Agreement is entered into between the City of Santa Fe (hereinafter referred to as the "City"), a New Mexico political subdivision, and the New Mexico Department of Information Technology (hereinafter "DoIT"), an executive branch department of the State of New Mexico.

RECITALS

WHEREAS, the City of Santa Fe's Data Center does not meet minimum requirements or standards for a metropolitan Data Center; ; and

WHEREAS, requirements outlined in the City of Santa Fe's Disaster Recovery Plan direct the City to move its primary data center to a tier III data center co-location facility and these requirements were included in a request for proposals issued for data center services; and

WHEREAS, upon evaluating proposals from commercial data center providers in New Mexico and from DoIT, the City established its primary data center at the Simms State of New Mexico Data Center in Santa Fe, and desires to retain its data center at that location; and

WHEREAS, the City accepts DoIT's terms and conditions stated in this Agreement for hosting City IT equipment and servers; and   •

WHEREAS, the associated costs to the City are exempt from the Procurement Code according to NMSA 1978, Section 13-1-98.

NOW THEREFORE, it is mutually agreed between the parties as follows:

1.   DUTIES OF THE PARTIES:

A. DoIT shall:

1) Continue hosting the City's IT equipment and servers at the Simms Data Center, Santa Fe, NM, to include providing physical security for the City IT equipment and servers; allowing access to City IT equipment only to City employees designated and authorized by the City of Santa Fe IT Department Director; providing authorized City IT employees with a badge to permit access to the Simms Data Center; providing for the fingerprinting of authorized City IT employees; maintaining records of the most recent 5000 events pertaining to the activity of the DoIT equipment hosting for the City and making such records available within 24 hours of a request from the City IT Department Director.

2) Upon request from the City IT Department Director, assist with any audit carried out on the City procedures under this Agreement.

3) Ensure that a camera records all activity 24 hours per day, 7 days a week,

365 days per year that occurs around the location where the City equipment is located, and maintain recordings for at least 90 days; log and photograph all City equipment that leaves the location where City equipment is located and the individual(s) leaving with any City material.

4) Provide a minimum of 9 sq. ft. of floor space to host the City equipment and servers and such space will comply with all City, state and federal safety requirements pertaining to server rooms.

5) Maintain a maximum temperature of 75 degrees for the City's equipment and servers. The temperature will be electronically monitored 24 hours a day, 7 days a week, and verified during the regular rounds conducted by DoIT security staff..

6) Provide adequate and "clean,' electrical power 24 hours per day, 7 days a week, 365 days at two L6-30 male plugs. . Electrical power will be delivered without surges or spikes.

7) Electrical power will be backed up by an uninterruptible power supply ("UPS") and generator support. DoIT will maintain all power distribution and backup systems in conformity with manufacturer's specifications. Standard power configuration shall be 30 amp circuits (primary/backup) delivered on two L6-30 male plugs. Other power configurations are available and may be installed for an additional fee.

8) Electronically monitor power if the City provides a smart Power Distribution Unit (PDU).

9) Provide the City with access to a loading dock for the unloading and loading of City equipment. The City may ship equipment and parts directly to the Simms Data Center.

B. The City shall:

1) Deliver its IT equipment and servers to the Simms Data Center.

2) Provide rack and power delivery units (PDUs) for the hosted equipment. The City may use any standard rack configuration such as HP or Dell 38, X 24', cabinet. The DoIT recommends IP/SNMP compliant PDUs.

3) Coordinate with DoIT for any upgrades to the application or change in management activities.

4) Report any trouble or issues to the DoIT Enterprise Support Desk via telephone to (505) 827-2121 or EnterpriseSupportDesk@state.nm.us

C. Additional Services:

1) The parties agree that all tasks set forth above shall be completed in full to the satisfaction of the City, for the amount set forth in Section 2 (Compensation) of this Agreement, and for no other cost, amount, fee, or expense.

2) The City may from time-to-time request changes in the equipment hosting services to be performed hereunder. Such changes, including any resulting increase or

decrease in   the amount of the compensation, which are mutually agreed upon by and between

the City and the DoIT, shall be documented in a written amendment to this Agreement. DoIT, in its sole discretion, may reject a change request.

3) To the extent consistent with its legal obligations and best operational practices, and at no cost to the City, DoIT will reserve 3 sq. ft. of floor space adjacent to the City's existing server racks for potential needs of the City.

1.   COMPENSATION BY CITY TO DoIT; NOT TO EXCEED AMOUNT

A.   The compensation to be paid to DoIT is based on the following monthly and annual pricing:

Services	Units	Rate per RU	Monthly Cost	Annual Cost
Data Center – Rack Unit Fee	168	$16.00	$2,688.00	$32,256.00
Electrical Power – up to 5kW delivered on L6-30			Included	
Cooling – up to 17K BTUs @ 75 degrees			Included	
Connectivity – 1 gig to Core network with two shared ISP (400 gig to TW 100 gig to Century Link)			Included	
Basic cabling standards are enforced by DoIT Network Service Bureau				
		TOTAL	2,688.00	$32,256.00

The total compensation for the three-year term, based on the current rates is $96,768.00

These rates are subject to change by the Information Technology Rate Committee as provided under NMSA 1978. § 9-27-7. as amended. DoIT will provide notice of rate increases once such increases become final.

B.   DoIT shall invoice to the City on or about the 10th day of each month commencing the month. City shall remit payment to DoIT within 30 days from the date the City receives the invoice.

3.   TERM

This Agreement, shall become effective upon the date of last signature by the parties hereto (the Effective Date) and shall terminate three (3) years later, unless earlier terminated pursuant to Section 4 (Termination) or 9 (Appropriations) of this Agreement. In no event shall the Term of this Agreement exceed a term of six (6) years in total. The City has the option to extend the Term of this Agreement in one-year increments by providing written notice to the DoIT at least 30 days before expiration of the current contract term.

4. TERMINATION

Either Party may, in its discretion, terminate this Agreement at any time for any reason and without penalty by giving the other Party written notice of termination. The notice shall specify the effective date of termination, which shall not be less than thirty (30) days from receipt of said notice. The City shall pay DoIT for services, in accordance with the specifications and standards set forth in this Agreement, performed up to the latter of the effective date of termination or the date of removal by the City of all equipment or servers hosted by DoIT. Unless otherwise agreed to by the parties, such removal will either predate or coincide with the effective date of termination.

5. NO THIRD PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons or party not a party to this agreement.

6. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omission in connection with this Agreement. Any liability incurred in connection with this agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA, § 41-4-1 et seq., as amended. No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by either party or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

7. AMENDMENT

This Agreement may be modified, altered, changed, or amended only by an instrument in writing executed by the parties hereto.

8. APPLICABLE LAW; VENUE

This Agreement shall be construed in accordance with the laws of the State of New Mexico. DoIT and the City agree that the exclusive forum for any litigation between them arising out of or related to this agreement shall be the State District Court of New Mexico, First Judicial District, located in Santa Fe, NM.

9. APPROPRIATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made by the Governing Body of the City of Santa Fe and if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or

future fiscal years, this Agreement shall terminate upon receipt by DoIT of written notice from the City. Such termination shall be without penalty to the City, but the City shall pay DoIT for contracted services, determined in accordance with the specifications and standards set forth in this Agreement, performed up to the latter of the termination date or the date of removal by the City of all equipment or servers hosted by DoIT. Unless otherwise agreed to by the parties, such removal will either predate or coincide with the termination date. The City is not committing to expenditure of any funds until such time as funds are programmed, budgeted, encumbered, and approved for expenditure by the City. The City's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by DoIT.

10. INTEGRATION CLAUSE

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

11. SIGNATURES

The Parties agree that each of the signatories below may execute this Agreement by hard copy original, facsimile, digital, or electronic signature, any of which will be deemed to be a true and original signature hereunder.

12. 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 continue to be valid and enforceable.

13. NOTICES

Any notice required by this agreement shall be given in writing to the parties designated below. Notice shall be effective when delivered personally to any party, or three days after deposited, postage fully prepaid, registered or certified, in any official receptacle of the U.S. Postal Service.

DoIT: Andrea Martinez
Chief Financial Officer
Department of Information Technology
PO Box 22550
Santa Fe NM   87503

City: City Manager
City of Santa Fe
200 Lincoln Ave
Santa Fe, NM 87504

14. SURVIVAL

The provisions of the following paragraphs shall survive termination of this agreement LIABILITY and SURVIVAL.

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date written above.

STATE OF NEW MEXICO, DoIT   APPROVED FOR FINANCIAL SUFFICIENCY

Acting Cabinet Secretary and State CIO Martinez

NAME & TITLE   Andrea Martinez, DoIT Chief Financial Officer

DATE: 2/23/2022   DATE: 2/21/2022

APPROVED FOR LEGAL SUFFICIENCY

Todd Baran

Todd S. Baran, DoIT General Counsel   2/21/2022

                                               DATE
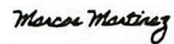
CITY OF SANTA FE:

ALAN WEBBER, MAYOR

ALAN WEBBER, MAYOR

ATTEST:

Kristine Mihelcic

KRISTINE BUSTOS MIHELCIC, CITY CLERK
GB MTG 03/30/2022

CITY ATTORNEY'S OFFICE:

Marcos Martinez

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item:
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