

CITY OF SANTA FE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Weston Solutions, Inc.**, hereinafter referred to as the "Contractor/Consultant," and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the Chief Procurement Officer of the City has made the determination that this Agreement is in accordance with the provisions of the New Mexico Procurement Code (NMSA 1978, 13-1-28 et seq.) pursuant to NMSA 1978, § 13-1-95.2.E; and NMSA 1978, § 13-1-111; and

WHEREAS, the Contractor is one of such requisite and qualifications and is willing to engage with the City for professional services, in accordance with the terms and conditions hereinafter set out, and the Contractor understanding and consenting to the foregoing is willing to render such professional services as outlined in the Agreement; and

WHEREAS, the Contractor does hereby accept its designation as Professional Engineer, rendering services related to engineering design and construction management services for Project S100650 Acequia Trail Extension from Rufina Street to San Felipe Road for the City, as set forth in this Agreement; and

WHEREAS, it is agreed by the parties that the performance of the professional services is for a period of four (4) years, as directed by the City.

NOW, THEREFORE, the parties hereby agree as follows:

1. Scope of Work.

The Contractor shall provide the following services-for the City:

PHASE I – STUDY

1. Environmental Investigations and Documentation
2. Property Ownership, Location Survey and Mapping
3. Coordination
4. Public Involvement

PHASE II – PRELIMINARY & FINAL DESIGN

1. Property Ownership Maps
2. Utility Designation, Location, and Mapping
3. Preliminary and Final Drainage Report
4. Geotechnical Investigations
5. Preliminary Design Plans
6. Right-of-Way Design
7. Final Design
8. Coordination
9. Public Involvement

PHASE III – BIDDING SERVICES

1. Environmental Investigations and Documentation
2. Construction Bid Documents

PHASE IV – CONSTRUCTION SERVICES (IF REQUIRED)

1. Construction Engineering and Management
2. Public Involvement

PHASE I – STUDY

1) Environmental Investigations and Documentation

Prepare environmental document that is appropriate for this project. The Consultant will select logical termini for addressing environmental concerns on a sufficiently broad scope. The environmental document shall be prepared in accordance with the NMSHTD Action Plan, FHWA Technical Advisory T 6640.8A, 23CFR Part 771 and other applicable guidelines and regulations. The environmental document shall address: the purpose of the assessment; the need for the project; project history; impacts to the natural and human environment; appropriate mitigation measures; public involvement, and coordination with federal, state, city, and county agencies, railroad companies and other entities.

The environmental investigations must be conducted by an interdisciplinary team including qualified environmental and natural resources specialists. A qualified environmental professional will be responsible for preparation of the environmental document.

The environmental document summarizes the environmental investigations, agency coordination, and public involvement. The efforts must be commensurate with the potential for environmental impacts. Documents submitted to the City which are incomplete as determined by the Project Manager will not be reviewed. Documents that are complete shall be reviewed once and comments made to the Consultant. Complete documents will have a comprehensive discussion of purpose and need, alternatives as appropriate and environmental investigation as described in this RFP. Errors or omissions

not adequately corrected from the first review will be subject to liquidated damages which will be withheld from final payment of the contract.

A. Environmental Assessment Outline

1. Executive Summary: A brief overview of the project, process, critical issues and conclusions.
2. Project Purpose and Need: Include an explanation of the planning requirements of TEA-21.
3. Project Description: Include discussion of project history and alternatives considered.
4. Environmental Factors: Discuss environmental factors in proportion to the magnitude of concern. Critical issues will be treated in detail and other issues summarized and included by reference:
 - a. Consistency with land use plans
 - b. Socioeconomic issues including discussion of Title VI and environmental justice as appropriate
 - c. Right-of-way, land transfers, and relocations
 - d. Natural, scenic, and visual resources including, as appropriate, discussion of general project setting, physiography, geology, seismicity, paleontology, and natural landforms
 - e. Air quality including, as appropriate, discussion of Clean Air Act, National Ambient Air Quality Standards, Air Quality Control Regions, and the State Implementation Plan
 - f. Noise impacts including discussion of the New Mexico State Highway Commission Policy on Noise Abatement
 - g. Surface water quality including, as appropriate, discussion of 404 permitting, section 404(b)(1) guidelines and requirements and 401 certifications
 - h. Ground water quality including, as appropriate, discussion of detention/retention ponds and consultation with the New Mexico Environment Department Groundwater Bureau, Notice of Intent for a Discharge Plan
 - i. Wetlands including discussion of Executive Order 11990 and, as appropriate, 404 permitting and 401 certifications
 - j. Flood plains including discussion of Executive Order 11988
 - k. Wildlife resources and wilderness areas including, as appropriate, discussion of Migratory Bird Treaty Act, Wild and Scenic Rivers Act, the Wilderness Act, consultation with management and regulatory agencies, etc.
 - l. Threatened and endangered species including discussion of the Endangered Species Act and Section 7 consultation with the US Fish and Wildlife Service
 - m. Soils and vegetation including, as appropriate, discussion of the National Pollutant Discharge Elimination System, storm water pollution prevention plan, best management practices, etc.
 - n. Farmland issues including, as appropriate, discussion of consultation with the Natural Resources Conservation Service and the Farmland Conversion Impact Rating (FCIR)
 - o. Historic and cultural resources including discussion of the National Historic Preservation Act and consultation with the State Historic Preservation Officer
 - p. Section 4(f) and Section 6(f) properties
 - q. Utility adjustments

- r. Hazardous materials including, as appropriate, discussion of the RCRA, CERCLA, underground storage tanks, initial site assessments and other investigations consistent with the NMSHTD Hazardous Waste Handbook, etc.
- s. Construction impacts
- t. Noxious weeds
- u. Pedestrians, cyclists and equestrians
- v. Secondary and cumulative impacts
- w. Irreversible and irretrievable commitment of resources
- x. Relation between short term use of the human environment and maintenance of long term productivity
- y. Summary of environmental impacts
- z. Environmental commitments and mitigation measures
- aa. Public involvement and agency coordination including discussion of the Public Involvement Plan, citizen advisory committees, cooperating agencies, etc.
- bb. References and list of preparers

B. Input Synopsis

The Input Synopsis and draft request of the Environmental Assessment shall be submitted to the City. The Input Synopsis shall contain copies of the public involvement handouts and written comments. It shall also contain the EA circulation list, responses to verbal and written comments and the public involvement summary and transcript. All studies, commitments and recommendations must be summarized and finalized (cultural resources, agency permits, etc.).

C. Copies

The Consultant shall provide ten (10) copies of the approved EA to the City. The Consultant shall also produce sufficient copies of the EA and mail them for appropriate public and agency review of the document. The Consultant shall provide three bound copies of the Input Synopsis to the City.

D. Environmental Investigations

The environmental investigations will include, if appropriate, surveys and analyses in the following areas:

- a. Biological surveys conducted by qualified biologists including a biological survey report and biological evaluation for threatened and endangered species and, if necessary, an official Biological Assessment and Evaluation for Endangered Species Act compliance regulatory agency review and approval.
- b. Wetland determination and delineation including, if necessary, a Wetland Delineation Report for regulatory agency review and approval.
- c. Section 4(f) determination and evaluation including, if necessary, an official 4(f) Determination Report for land management agency and FHWA review and approval including avoidance options, alternative evaluations and measures to minimize harm.
- d. A visual impact assessment including, if necessary, a separate Visual Impact Assessment Report for City review and approval.

- e. A noise analysis including, if necessary, a separate Noise Analysis Report for City review and approval.
- f. An air quality analysis including, if necessary, a separate Air Quality Analysis Report for City review and approval.
- g. Other surveys, investigations, and analyses may be required as appropriate to the project.

Environmental investigations must include analyses of all issues mandated by the National Environmental Policy Act (NEPA) as well as other state and federal environmental legislation, including Executive Orders on Wetlands, Floodplains, and Environmental Justice. The environmental investigations shall include evaluations of all appropriate alignment and typical section alternatives, including the no-build option and avoidance options. Environmental investigations will also include, as appropriate, measures to minimize harm, enhancement measures and measures to mitigate impacts. Cultural resource investigations shall include Historic Building Inventories and Tribal Consultations as required by the National Historic Preservation Act, Section 106.

The environmental investigations will include a cultural resources survey and preparation of a final report that meets all federal and state requirements. Four (4) copies of the final Cultural Resources Survey Report shall be submitted to the City. The cultural resources survey must be conducted by a qualified archaeologist.

All environmental reports submitted to the City are subject to City approval before investigations are accepted as complete. Based on engineering, cost, environmental and right-of-way impacts, the Consultant shall determine, recommend and obtain the City's concurrence on the preferred alternative to be used for location approval in the environmental document and for final design.

2) Property Ownership, Location Survey & Mapping

Research and investigate adjacent property ownership within areas of new construction by use of County/and or City records. The Consultant shall provide a location survey (including location of fences, structures and above ground utilities), controlled aerial photography, computer mapping services and digitized cross sections. All surveying shall be performed under the direct supervision of a New Mexico Registered Professional Land Surveyor and conform with the Minimum Standards for Surveying in New Mexico adopted by the New Mexico Board of Registration for Professional Engineers and Surveyors.

The Consultant, having obtained all the necessary records and field data, will show all pertinent survey data and information (i.e. existing right-of-way limits, property lines, monuments, structures, etc.) and tie to existing or set monuments on or near the project area. Survey information shall be prepared at the same scale as the planimetric plan and profile sheets and shown on these sheets.

3) Coordination

The Consultant will be responsible for all coordination necessary to accomplish the work required by the contract. This responsibility shall include coordination with all property owners and federal, state, city, county, schools and other agencies having jurisdiction or

interest in the project. This will include obtaining approvals and/or concurrence on all work that is to be completed by the Consultant including work completed by sub-contractors working under this contract.

This responsibility shall also include obtaining all formal (written) and informal (verbal) approvals. For any required formal approvals, the Consultant will provide the City with all required data and draft letters of transmittal. In the event the Consultant is not successful in obtaining formal approvals, the Consultant shall promptly notify the City in writing, and the City will assist in resolving the matter.

In addition to the above, the Consultant shall be responsible for:

- a. Scheduling all design reviews
- b. Distributing all reports, plans and documents
- c. Writing design review reports
- d. Writing Design Team meeting reports
- e. Performing property owner interviews and documenting the interviews
- f. Scheduling PS&E Office Review
- g. Writing PS&E Office Review Report
- h. Being the focal point, for the flow of all project activity, including the sub-contractor work
- i. Providing monthly progress reports for design, utility, environmental, right-of-way and construction
- j. Providing periodic presentations to the City. (i.e. City Council and Committees), Local or Regional Planning Organization (LPO/RPO), State, etc.

4) Public Involvement

Public involvement activities will be proposed by the Consultant in a Public Involvement Plan (PIP). The PIP will be submitted to the City for review and concurrence.

It is anticipated that a high level of public involvement will be required. This level of effort typically involves several public information meetings, a public awareness program and at least one public hearing. The Consultant shall be responsible for the implementation and cost of all public meeting/hearing coordination including advertisement of the meetings, arrangement and cost for required recording equipment; news media coordination; providing and arranging for the meeting facilities; responding to agency and public comments; preparation of handouts, exhibits and displays; coordination of meetings; preparation of reports of all meetings and contacts; preparation of transcripts and summaries of public meetings; and any coordination with the general public, property owners, or agency involvement that may be required before or after the public meetings.

Property owner contacts shall be conducted in the field by arranging to meet with owners at their respective parcels. An overview of the project will be discussed and include preliminary access, drainage, and fencing issues. Also, the specifics on how the property owner's access, fencing, gates, drainage, etc., will be affected by the project are to be discussed.

If applicable, the Consultant shall be responsible for following the City Land Development Code, Chapter 14-3.1(F), Early Neighborhood Notification (ENN) Procedures (i.e. notice of public meetings).

PHASE II – PRELIMINARY & FINAL DESIGN

1) Preliminary Property Ownership Maps

Provide Preliminary Property Ownership Layout Maps. These maps may be prepared using county and/or city records and GIS orthophotography in conjunction with the location survey. Maps shall be prepared at the same scale as the planimetric P&P sheets.

2) Utility Designation, Location, and Mapping SUE Level (A)

A. Scope of Subsurface Utility Engineering Services

The Subsurface Utility Engineering (SUE) process is to identify the type, size and the ownership of existing underground and overhead utilities and establish their exact/precise location within the proposed project limits of City proposed construction projects. The process shall include all necessary records research, field investigations (designation), potholing (locating), surveying and mapping, design analysis and recommendations relative to impacts on existing and/or proposed utility systems on City projects. The process may also include utility relocation design and estimates. Subsurface Utility Engineering services shall be provided by qualified, experienced SUE consultants, who must meet the minimum requirements/standards outlined below prior to providing services.

“Accurate” shall mean 0.30 meters to 0.60 meters (1.0 to 2.0 feet), unless a more precise tolerance is specified. The SUE Consultant shall also designate wells and septic systems. While performing the designating activity, the SUE Consultant may excavate test holes, at no expense to the City, for the purpose of determining the approximate depth of the utility. Any markings on sidewalks or roadways for survey identification shall be of a temporary nature. The SUE Consultant shall provide the Consultant and the City with all data secured in hard copy plan sheet(s) Micro-station) format. After completion of the designating phase, the SUE Consultant shall consult with the Project Manager, and the Consultant to discuss the findings, potential impacts and to establish the scope of additional SUE activities.

B. Utility Locating

For the purpose of this contract, “locating” shall mean to obtain exact/precise horizontal and vertical positions of utilities by excavating test holes. The test holes shall be done by vacuum excavation system and in a manner so as not to cause damage to utilities or other underground structures. This activity shall only be added in the event the design team determines this information is needed and shall be added by an amendment (if necessary) to the City/Consultant contract. This activity shall be performed prior to the 60% completion design review and only based on information secured during the designating activity and at the direction of the design team. This activity shall require the SUE

Consultant to provide exact/precise three-dimensional plan and profile mapping, tied to City survey control, of utilities and related structures for making final design decisions. The SUE Consultant shall use City approved survey books to record all surveys and shall also use City monuments and benchmarks referenced in the book and control lines provided by the City. All surveying and designation of monumentation within the limits of the project shall be coordinated through and submitted to the Project Manager. All horizontal control shall be oriented to the New Mexico Grid System, and all elevations shall be based on the National Geodetic Survey (NGS) mean sea level datum of 1988.

The survey information shall contain horizontal location and vertical elevation every 500 feet (150 meters) or as specified, and referenced to project datum at top and bottom of the utility, true elevation of existing grade over the utility at the test hole, outside diameter of utility and configuration of non-encased multi conduit systems, utility structure material composition if ascertainable, paving thickness and type, and other pertinent information as is reasonably available from the test hole site.

References to project datum shall maintain vertical and horizontal tolerance to 2.5 centimeters (one inch), unless a more precise tolerance is specified for the specific location(s) being investigated.

C. Traffic Control

The City will strictly enforce its policies and procedures. All work in the City of Santa Fe shall be performed in accordance with the following:

- a. Latest edition of the NMSHTD Standard Specifications for Highway and Bridge Construction.
- b. Manual on Uniform Traffic Control Devices (MUTCD 1988 Edition).

For the purpose of traffic control and possible lane closures, before initiating any field surveys or test pits, the SUE Consultant shall be required to obtain a permit from the City.

The SUE Consultant shall be required to submit a Traffic Control Plan (TCP), which must be approved by the City before the permit can be issued. The SUE Consultant shall be responsible for providing all labor, materials and equipment necessary for TCP at the SUE Consultant's expense. The TCP shall include, but is not limited to: temporary traffic control signs, channeling devices, arrow panels, traffic barriers (i.e. attenuator barrels), impact attenuators, flaggers, temporary pavement markings, etc., and all other equipment and labor necessary to effectively implement the approved Traffic Control Plan.

D. Analysis, Recommendations and Design

When the SUE Consultant has performed all necessary research, designating and locating services, he/she shall determine to what extent the proposed roadway improvements will impact the utilities and prepare a report outlining avoidance alternatives, required adjustments and/or relocations and cost estimates to perform those relocations. This activity shall be planned and timed to occur within thirty (30) days of completion of the 60% completion design review. In certain instances, the SUE Consultant may be asked to

prepare utility relocation design plans and specifications for inclusion into the City's contract documents.

The SUE Consultant shall be capable of providing relocation design for telecommunications, water, gas, electrical and sanitary sewer facilities. Experience in utility design, roadway engineering and storm drainage design are important factors. Recommendations on how to resolve conflicts with utilities during highway design will be required so as to reduce utility relocation costs.

The SUE Consultant shall prepare a report indicating the findings, recommendations and actions resulting from the work they performed. The report shall include, but not be limited, to a cost-benefit analysis of the Subsurface Utility Engineering process for this project, i.e., how many dollars were saved for each dollar expended. The SUE Consultant shall also submit a final financial tabulation for this project, including a breakdown of all costs associated with the SUE process on a per unit basis.

E. Certification of Work

In all cases the SUE Consultant must certify his/her work, and such certification shall include the signature and seal of a Professional Engineer and/or a Professional Licensed Surveyor, who is registered in the State of New Mexico.

F. Manpower

The SUE Consultant shall list four (4) key staff personnel. The key staff shall include:

- a. A Professional Engineer registered in the State of New Mexico with expertise in subsurface utility engineering
- b. A Professional Land Surveyor registered in the State of New Mexico with expertise in surveying utilities
- c. Qualified Geologist
- d. Project Manager/Liaison

The SUE Consultant shall provide all equipment, personnel and supplies required to perform its research, designating, locating, design and other services. The SUE Consultant shall obtain all necessary permits from the state, city, county, or other municipal jurisdictions, to allow the company to work in existing streets, roads and right-of-way for the purpose of marking, measuring and recording of existing utilities. The SUE Consultant shall notify Blue Stake or One Call prior to any fieldwork and shall be responsible for any fees incurred.

G. Equipment

The SUE Consultant shall list the quantity and different types of equipment that will be used for designating and locating services. This listing shall be in the technical proposal.

H. Professional Liability Coverage

The SUE Consultant shall have and maintain professional liability insurance that covers his/her subsurface utility operations and insurance for his/her professional services that will

hold the City harmless for errors and omissions until construction of this project is complete.

I. Undersigned Sub Consultant Services

The SUE Consultant shall list all sub-consultants that are expected to provide services under this contract. The Contract shall also include a separate sum of money for undesignated sub-consultant services that may be required for unique circumstances.

In addition to the requirements outlined previously, the Subsurface Utility Engineering firm selected to perform services for the City must also meet the following minimum standards:

- a. Demonstrate (list of projects and contacts) a thorough knowledge and understanding of designating, locating and data management activities. The SUE Consultant must have five years minimum experience as a Subsurface Utility Engineering service provider.
- b. Individuals assigned by the SUE provider to carry out the work assignments must be well trained. The SUE Consultant must provide an on-going training program to the City prior to being pre-qualified and accepted as a SUE service provider by the City.
- c. Individuals assigned by the SUE provider to supervise daily operations on each crew must have a minimum of two years SUE crew experience.
- d. The Project Manager must have previous experience in the management of two or more SUE contracts, and must be available to commit sufficient time to the project.
- e. The SUE provider must demonstrate the capacity to pool resources and respond to the needs of the City in a timely manner.
- f. The SUE provider must have vacuum excavation or comparable non-destructive locating equipment capable of successfully completing the task, considering the soil conditions for the geographic region and/or the depth of existing utilities.

J. Mapping and Data Management

After identifying existing and future utility locations as requested by the City, the SUE Consultant shall map utility locations onto plans and/or aerial photographs as directed by the City. The SUE Consultant shall also be required to provide the Consultant and the City all information in hard copy and electronic file or Micro-station format. All electronic files provided by the SUE Consultant shall ultimately be capable of successfully being merged into the city project plan and profile and cross-section sheets. The SUE Consultant may be required to record the locations of the utilities on a City approved form that will be used for prior rights determination. If a price proposal is requested for this activity, the Consultant shall propose a unit cost per activity as outlined in the rate schedule for subsurface utility mapping services. The unit cost shall include all equipment, the operator and other support personnel for each activity.

3) Preliminary and Final Drainage Report

Prepare Preliminary and Final Drainage Reports. The drainage reports will require a detailed study of the project area and recommendations are to be developed with alternate proposals to correct any of the problems.

A. Preliminary Drainage Report

Prior to performing a preliminary drainage study, the Consultant shall meet with the City's Project Manager to discuss the hydrologic analysis of existing and proposed drainage structures. The Preliminary Drainage Report shall summarize the results of the preliminary drainage analysis. The report shall include:

- a. Floodplain Management Related Issues (i.e. floodway development, no rise, CLOMR/LOMR, other)
- b. Discussion of soil types
- c. Vegetation and land use distribution
- d. Curve number or rational formula "C" calculations
- e. Time of concentration calculations
- f. Drainage area topographic map with existing structures inventory
- g. Drainage areas
- h. Design (50-year) and 100-year discharges and their corresponding headwater depths. Design discharge frequency calculated shall be determined based on the overall project needs to provide flood protection, erosion protection, storm water quality enhancement and meet all floodplain management criteria.
- i. Summary of the drainage field inspection results including City personnel (public and other local agencies) interview and drainage structure field inspection forms.
- j. CME's required to construct the structures
- k. Summary table of existing and recommended drainage structure sizes and types, and identification of sources used in the analysis.
- l. Preliminary erosion protection and energy dissipaters design and preliminary details.

For urban projects, the preliminary hydraulics shall be computed based on existing information to provide scope of drainage work and cost estimate that will be the basis for the Final Scope Report and the Final Drainage Report. The Preliminary Drainage Report shall include preliminary design and locations of drop inlets, trunk lines, other preliminary drainage data, and dimensions of CME's and ponds needed.

Floodplain issues shall be addressed completely to assure the project follows all applicable federal, state and City of Santa Fe regulations.

B. Final Drainage Report

The Final Drainage Report is basically a refinement of the Preliminary Drainage Report. A detailed hydraulic analysis such as: backwater profiles, flow velocities, scour calculations, and other hydraulic design data are required for major structures and design of permanent erosion protection.

In preparing the Final Drainage Report, the Consultant shall perform, on all major structures or channels, a hydraulic analysis using the HEC-2, HECRAS or WSPRO computer model to develop water surface profiles for the existing conditions and for the proposed conditions. An approved Final Drainage Report shall be prepared for the selected alternative which shall incorporate all pertinent design data into a concise document including: drainage map(s); inventory of existing drainage structures; detailed structure recommendations including drainage areas, design discharges, head water depths; and a Water Surface Profile Structure Layout Sheet for any major structures. If a retention pond

is needed, the Consultant shall prepare and submit a Notice of Intent (NOI) groundwater application, as may be required. If Section 401 and 404 applications are required, the Consultant shall prepare and submit the necessary applications with the approval of the City. This work shall not be done prior to the completion and approval of the environmental documentation.

For urban projects, include in the Final Drainage Report the storm drain design data at each drop inlet and manhole such as design discharges, carry over discharges, intercept discharges, and other hydraulics data. The construction plans shall include storm drain system data such as hydraulic grade line for 100-year discharge, invert elevations, slopes, velocities, and discharges.

If the disturbed area is greater than one acre, the Consultant shall prepare a storm water pollution prevention plan (SWPPP). The Consultant shall also prepare temporary erosion and sediment control plans (TESCP). Additional information regarding the SWPPP and TESCP may be available from the NMSHTD Drainage Section.

The Consultant shall use the NMDOT Drainage Design Manual, July 2018” or current revision and “National Pollutant Discharge Elimination System Handbook, January 1997” or current revision for methodologies in preparation of the Final Drainage Report.

C. Copies

The Consultant shall furnish three (3) bound hard copies and one (1) electronic copy of the Preliminary and Final Drainage Reports for City Staff review and comments.

4) Geotechnical Investigations

A. Geotechnical Services – General

The Consultant may be required to provide geotechnical recommendations and a Geotechnical Report. The Geotechnical Report will be submitted as part of the Preliminary Design of the selected alignment.

The City may elect that the Consultant provide geotechnical services as defined below:

a. Geotechnical Investigation and Laboratory Testing

Geologic/geotechnical exploration shall follow the procedures, requirements and guidelines as outlined in the latest edition of the NMDOT Materials Geotechnical Manual. The Geotechnical Report shall present data collected during the geotechnical investigation. Information shall include at least the following:

- i. Project location map
- ii. Description of the project scope
- iii. Presentation of the field investigations
- iv. Descriptions of the earth materials encountered during the field investigation
- v. Laboratory test results including consolidation, tri-axial testing of undisturbed samples if clay soils are encountered, direct shear tests, rock core point load and unconfined compression tests (rock cores)

- vi. For drainage structures, the need for borings will be determined on a site by site basis.
- vii. Geophysical test results.
- viii. Plan and profile sheets with test holes or pits shown in plan and profile views.

b. Geotechnical Design Recommendations

Final design recommendations shall address some or all of the following:

- i. Stabilization/densification of unsuitable embankment or native soils
- ii. Slope stability/steepened slope design
- iii. Mitigation of settlements
- iv. Rock excavation and blasting requirements
- v. Maximum cut slope angles in soil and rock
- vi. Suitability of foundation soils or rock to support an embankment or structure
- vii. Shrink and swell factors of earthwork
- viii. Groundwater affecting the project/need for cut-off trenches
- ix. Special treatments, i.e. use of geotextiles, soil nails, pressure grouting, etc.

c. Geotechnical Report

The Geotechnical Report shall document the results of the geotechnical activities. The geologic and geotechnical study of the final alignment within the corridor shall make final geotechnical design recommendations to provide for a stable roadway prism including final pavement design. An electronic copy of this report shall be submitted to the City in conjunction with the Preliminary Design Plans.

B. Geotechnical Services – Structures and Foundations

The Consultant may be required to provide geotechnical recommendations related to any structures and submit a Foundation Report. The Foundation Report, to include detailed recommendations for structures and retaining walls, shall be prepared for the selected structure alternatives.

The City may elect that the Consultant provide geotechnical services as defined below.

a. Retaining Walls

Retaining walls shall be designed based on AASHTO and/or FHWA DEMO 82 Reinforced Soil Structures design guidelines. Bearing capacity, settlement, and global stability analysis shall be performed at all retaining walls to insure serviceability of the walls. Requirements for stabilization of unsuitable subsoils will be specified where required to meet serviceability requirements. Mechanically Stabilized Earth (MSE) walls will utilize NMDOT's approved MSE wall manufacturers.

b. Approach Embankment Analysis

Approach embankments shall be analyzed for long-term settlement potential, including settlements due to low in-situ density, hydro-collapsible soils. Requirements for stabilization of unsuitable subsoils will be specified where required to meet serviceability requirements. Approach embankments shall be specified for 100% standard Proctor

density as required by City standard details with approach slabs bearing on AASHTO A-1-a material.

c. Foundation Report

The Foundation Report shall document the results of the field exploration and laboratory testing, bridge foundation recommendations and analysis and retaining wall recommendations and analysis. All work shall be completed according to the standards set forth in the most recent edition of the NMDOT Materials Geotechnical Manual. The Foundation Report may be included as a part of the Geotechnical Report.

5) Preliminary Design Plans

The Consultant shall provide or conduct the following:

A. Preliminary Design Report

The Consultant shall prepare and print up to 12 copies of a final Phase I report, which shall include recommendations based on the work performed in the preparation of the drainage reports and the preliminary design plans. Also included in this report will be a detailed construction cost estimate by construction type, and location. The Consultant should contact the City to ascertain the required numbers of copies of the Preliminary Design Report.

B. Preliminary Field Review

The Consultant shall conduct a preliminary field review (PFR) after the location survey and mapping is complete. The PFR will be held to establish the preliminary scoping for the project.

C. Preliminary Design Plans

Provide preliminary design plans (30% completion plans) for the project to be finalized, which shall include: geometrics, traffic control plan, plan and profile sheets, and a preliminary construction cost estimate by construction type. Project plans will include: recommended horizontal and vertical alignment, typical roadway sections, culvert sections, intersection layouts, drainage requirements, slope limits, right-of-way requirements, utility relocation/adjustment requirements, preliminary earthwork analysis, and structure requirements such as bridges, retaining walls, and major drainage structures. Project plans shall be prepared to the City's standards for general content and format. Plans shall be prepared for the alignment and typical sections, as approved by the City.

D. 30% Completion Design Review

Schedule and conduct the 30% completion design review. The review shall include the preparation of the 30% completion review report. Project plan shall be prepared to the NMDOT's standards for general content and format, in CAD version compatible with or fully convertible to the City's current AutoCAD software version. The Consultant shall submit (3) three bound sets of plans (50% reduced) and (1) PDF set for the review. Additional sets may be requested by the City. All information must be completely legible on the plan sets provided.

6) Right-of-Way Design

The City may require right-of-way design services. If required, a portion or all of the services listed below will be negotiated. When right-of-way design services are necessary, the Consultant will provide right-of-way surveying, mapping, title reports, appraisal, negotiation and monumentation.

A. Right-of-Way Surveying

The development of the right-of-way surveying work shall be closely coordinated with the City staff.

All right-of-way surveying shall be performed by a Professional Surveyor licensed in New Mexico and ultimately should conform with Rule(s) 500.6 and 500.7 of the Minimum Standards for Surveying in New Mexico adopted by the New Mexico Board of Registration for Professional Engineers and Surveyors. Right-of-way surveying, mapping, and monumentation should also conform with the latest NMDOT Right-of-Way Surveying, Mapping, and Monumentation Procedures/Policies and subsequent guidelines, standards, revisions and amendments.

Prior to commencing right-of-way surveying, the Consultant shall meet with the City to review and concur on the scope of right-of-way surveying, mapping and monumentation required based on the 30% completion plans, report and the preliminary property ownership layout maps. Right-of-way surveying, mapping, and monumentation will be performed only in areas where new right-of-way is required. The Consultant shall then submit the workhour and fee proposal for the right-of-way surveying, right-of-way mapping and monumentation requirements to the City.

Upon receiving approval on the scope of right-of-way surveying work to be performed and after completing the necessary right-of-way and property boundary research, the Consultant shall proceed with the right-of-way field survey and locating existing right-of-way limits and intersecting property lines impacted by proposed fee take parcels and construction maintenance easements. Also, locate all fences, structures, septic tanks, billboard signs and other improvements which may be affected by proposed right-of-way widening, appraisals, acquisitions, etc. Some of these features may have been obtained during the location survey phase of the project but they may need to be appropriately tied to the right-of-way surveys and maps. Also, provide sufficient survey information on ties to existing or set monuments on the project.

The Consultant, having obtained all the necessary field data, will prepare the right-of-way survey maps and will show all pertinent survey data, existing right-of-way limits, intersecting property lines, accepted and rejected monuments, encroachments, buildings, billboard signs or structures within fifty feet of the right-of-way, etc., annotation and notes upon which future right-of-way acquisition boundaries will be electronically overlaid and computed.

B. Right-of-Way Mapping

The Consultant shall meet with the City to review the completed right-of-way survey map. Key topics of review and discussion at this session will be confined to the methodology utilized in the determination of existing right-of-way limits, intersecting property lines, encroachments, hiatus, prescriptive rights, accepted/rejected monuments etc. This meeting should be scheduled prior to beginning the preparation of right-of-way maps.

The Consultant will prepare the preliminary right-of-way maps for presentation and review at the 60% completion design review. Immediately following the review and, prior to the 90% completion design review, the Consultant shall submit three (3) final Right-of-Way Map print sets of the final Right-of-Way Map with one copy of all documents including legal descriptions and title reports to the City for first review. Ownership shall be shown on the Right-of-Way Maps exactly as listed in the title reports. These final Right-of-Way Maps shall locate all parcel takes and construction maintenance easements. Temporary construction permit locations shall also be shown on the map if they are in areas for which mapping has been developed. All temporary construction permits shall, however, be listed on the parcel block sheet of the final Right-of-Way Maps as well as shown on the plan and profile sheets. The City will not provide an extensive detail check of any of the final maps and plans. Therefore, any errors and/or omissions in the final Right-of-Way Maps, legal descriptions, and subsequent monumentation mapping and staking will be the full responsibility of the Consultant. Acceptance of the final Right-of-Way Map or other work products developed under the contract and termination of the contract when work is completed will not remove the responsibility of the Consultant as outlined above.

The second review prior to the 90% completion design review is primarily for the purpose of assuring that the red-lined markups of the first review set have been made and to assure that items of concern resulting from the first review are adequately addressed and communicated to the Consultant. If alignments or other major changes occur to the Right-of-Way maps presented for the first review, the City shall be notified and may result in additional time necessary for reviews by the City.

C. Title Reports

All title services work shall be performed in accordance with Executive Order No. 89-15, dated March 30, 1989 and the policies and procedures as contained in the NMDOT Right-of-Way Handbook, Volume II, utilizing the forms and/or formats set out therein.

Note: For work-hour estimates assume 10 title reports will be required, each a 33-year abstract.

D. Takes and Construction Maintenance Easements (CME's)

The Consultant shall provide the following:

- a. A 33-year certified title search on every parcel affected in the right-of-way acquisition.
- b. A Chain of Title (Index) reflecting all transactions affecting said parcel shall be provided.
- c. Copies of all pertinent documents described in Chain of Title (Index).

- d. A five-year tax search (or computer printout) reflecting the current assessed owner, address, description of property and the amount of taxes for the current assessed year reflecting whether paid or unpaid.
- e. Caption sheet or title sheet showing current owner and address of record, description of property being abstracted.
- f. Work map and index identifying each parcel abstracted.
- g. Information on any mortgages, liens, or judgments that have been released of record does not have to be shown on said search. For any probates or district court proceedings only pertinent proceedings need be shown, not the complete case file.

E. Temporary Construction Permits (TCP's)

The Consultant shall provide the following:

- a. Provide current ownership.
- b. Title sheet showing current owner, address of record, description of property, document creating ownership and certificate.

1. General

A. The Consultant shall:

- a. Execute and submit with each title report the "Certificate of Title" form and hold the title reports in confidence and reveal the title reports or opinions only to the City unless otherwise directed in writing by the City.
- b. Deliver title reports to the City "satisfactorily completed" in a timely manner. Delivery of such shall be defined as (1) actual transfer of possession in the form approved by the City incorporating all required corrections and clarifications, and (2) written acceptance by the City of the Consultant's work.
- c. The City's acceptance or rejection of the Consultant's work product shall be given in writing. The City shall return deficient or inadequate title reports within 30 calendar days of receipt.
- d. The dates for the submission of title reports shall be determined at the initial meeting between the City and Consultant.
- e. All documents must be letter size, except for surveys and/or maps, which may be folded. All title reports must be bound securely (abstract form). All title reports submitted must be prepared by a licensed and bonded Title Company.
- f. Promptly correct all deficiencies and return the title reports for further review within (30) calendar days from date of return.
- g. Be fully responsible for the accuracy of all work.

B. The City shall:

- a. Return to the Consultant, within thirty (30) calendar days of receipt, individual title reports found to be deficient or inadequate with the reviewer's comments, if applicable.
- b. Hold a review of the title work for the purpose of further discussion of the type of title work required.
- c. Make available to the Consultant, City records as may be available and pertinent for the purpose of the work herein described.
- d. Schedule and hold a review with the Consultant and representatives of the City involved in the project as necessary.

F. Monumentation

Upon assignment of a final map date by the City, the Consultant shall prepare the preliminary monumentation mapping, field staking of right-of-way limits as defined by the final Right-of-Way Maps and Right-of-Way Certification and recordation of the final Right-of-Way Monumentation Map(s) will be required. The final Monumentation Maps shall meet the NMDOT's Monumentation Mapping guidelines/policies and current pertinent provisions of the Minimum Standards for Surveying in New Mexico.

7) Final Design Plan

A. 60% and 90% Completion Design Plans

Provide 60% & 90% design plans for the project which may include, but are not limited to, roadway typical sections and pavement design, quantity summary and schedules, plan and profile sheets showing horizontal and vertical alignment, lane configuration and intersection geometrics, permanent signing and striping plans, traffic signal and lighting plans, structure sections, roadway turnouts, slope limits, proposed right-of-way limits, storm drain system identification, drainage requirements, TЕСM plan, traffic control plan and sequence of construction, utility relocation/adjustment requirements, earthwork analysis, structure details for bridges, retaining walls, and major drainage structures (and aesthetic details if necessary) and a construction cost estimate by construction type. Identification of areas requiring work permits, temporary construction permits, and construction maintenance easements may also be required. Project plans shall be prepared to the NMDOT's standards for general content and format.

B. 60% and 90% Completion Design Review

Schedule and conduct the 60% & 95% completion design review with appropriate City staff. The Consultant shall prepare the 60% & 95% completion review reports (or meeting minutes).

Project plans shall be prepared to the NMDOT's standards for general content and format, in CAD version compatible with or full convertible to the City's current AutoCAD software version. The Consultant shall submit (3) half-sized bound plan set printed to scale and (1) PDF set. Additional sets may be requested by the City. All information must be completely legible on the plan sets provided.

The Consultant shall provide final design plans, which may include, but are not limited to, the following:

a. General Sheets

- i. Title Sheet
- ii. Vicinity Map
- iii. Project Layout Sheet
- iv. Index of Sheets
- v. Summary of Quantities
- vi. General Notes and Incidental Items
- vii. Environmental Concerns and Mitigation Measures

- b. Miscellaneous Sheets
 - i. Typical Sections
 - ii. Miscellaneous Details
 - iii. Surfacing Schedule
 - iv. Structure Quantities
 - v. Miscellaneous Quantities
 - vi. Curb and Gutter Layouts
 - vii. Metal Barrier Layouts
 - viii. Erosion and Sediment Control
 - ix. Seeding and Landscaping
 - x. Grading
 - xi. Visual/Aesthetic Details
- c. Plan and Profiles Sheets
 - i. Mainline
 - ii. Crossroads
- d. Turnout Profiles
- e. Bridge/Retaining Wall/Noise Wall Plans
- f. Traffic Control Plans
 - i. Notes
 - ii. Sequence of Construction
 - iii. Sign Face Details
 - iv. Traffic Control Plans
- g. Signal Plans
 - i. Signal Warrant Analysis for at-grade intersections
 - ii. Signal Design Plans
 - iii. Interconnect Plans
- h. Lighting Plans
 - i. Lighting Analysis
 - ii. Lighting Plan
- i. Permanent Signing and Striping Plans
 - i. Plans
 - ii. Overhead Signs
 - iii. Sign Face Details
- j. Drainage Plans
 - i. Plan and Profile
 - ii. Structure Sections
- k. Earthwork Cross-Sections
- l. Performance Specifications
 - i. Small projects not requiring full plans

C. Final Design Package

The Consultant shall submit the completed final design plans, specifications and estimates and all related documents to the City of Santa Fe. The final design package may include the following:

- a. Five (5) full-size copies of final design plans (36"x 24" or 34" x 22"); signed by the City's Public Works Director, Engineering Division Director, ADA Coordinator and Historic Preservation Division Director.
- b. Five (5) half-size copies of final design plans (12"x18" or 11"x17").
- c. One (1) electronic copy of the final design plans.
- d. One (1) hard copy and one (1) electronic copy of the final cost estimate.
- e. One (1) electronic copy and three (3) bound final sets of complete bidding documents, including wage rates and signed advertisements.
- f. Review of contractor submitted "As-Built Plans", preparation and submittal of "As-Built Drawings", two (2) 36" x 24" or 34" X 22" paper copy and an electronic copy on a thumb drive in AutoCAD format (version 2015 or more current).

8) Coordination

The Consultant will be responsible for all coordination necessary to accomplish the work required by the contract. This responsibility shall include coordination with the public, all property owners and federal (e.g.s. FHWA, US Fish & Wildlife), state (e.g.s. NMDOT, NMED, SHPO), city (all departments/divisions/committees as required), county, schools (e.g.s. NM School for the Deaf) and other agencies having jurisdiction, management responsibilities, sensitive resource responsibilities, permit authority or interest in the project (e.g.s. Santa Fe Railyard Community Corp., Trust for Public Land, SHPO, NMED, Acequia Madre Ditch Association). This will include obtaining approvals and/or concurrence on all work that is to be completed by the Consultant including work completed by sub- contractors working under this contract.

This responsibility shall also include obtaining all formal and informal approvals. For any required formal (written) approvals, the Consultant will provide the City with all required data and draft/final draft letters of transmittal. In the event the Consultant is not successful in obtaining formal or informal approvals, the Consultant shall promptly notify the City in writing, and the City will assist in resolving the matter.

The appropriate agencies, the public and other interested groups will be contacted to ensure that the community and governmental concerns are identified and considered for inclusion in the study and design development of the project. The Consultant shall be responsible for all coordination that is required to provide a satisfactory public involvement plan and environmental document, as necessary.

In addition to the above, the Consultant shall be responsible for:

- a. Scheduling all design reviews.
- b. Writing design review reports.
- c. Writing design team meeting reports (minutes).
- d. Distributing all reports, plans and documents.
- e. Performing property owner interviews and documenting the interviews.
- f. Providing monthly progress reports for design, utilities, environmental, right-of-way, and construction.

- g. Providing periodic progress presentations to the City and local elected officials (i.e. Public Works Director, Engineering Division Director, City Council, City Committees, MPO, RPA, etc.)

9) Public Involvement

The Consultant shall be responsible for the implementation and cost of all public meeting (or public hearing) coordination including advertisement of the meetings, arrangement and cost for required recording equipment; news media coordination; providing and arranging for the meeting facilities; responding to agency and public comments; preparation of handouts, exhibits and displays; coordination of meetings; preparation of reports of all meetings and contacts; preparation of transcripts and summaries of public meetings; and any coordination with the general public, property owners, or agency involvement that may be required before or after the public meetings.

Property owner contacts shall be conducted in the field by arranging to meet with owners at their respective parcels. An overview of the project will be discussed and include preliminary access, drainage, fencing or other issues as applicable. Also, the specifics on how the property owner's access, fencing, gates, drainage, etc., will be affected by the project are to be discussed.

If applicable, the Consultant shall be responsible for following City Land Development Code, Chapter 14-3.1(F), Early Neighborhood Notification (ENN) Procedures (i.e. notice of public meetings).

PHASE III – BIDDING SERVICES

1) Environmental Investigations and Documentation

All necessary permits (e.g. NPDES, 401, 404, etc.) must be obtained prior to project bidding. Coordination and approvals with all appropriate federal, state and local agencies and authorities will be required, as necessary. Reports must be prepared by qualified environmental and natural resource personnel (archeologists, biologists, etc.). The Consultant will select logical termini for addressing environmental concerns on a sufficiently broad scope. All environmental, cultural, or biological reports, as necessary, shall be prepared in accordance with applicable guidelines and regulations.

2) Construction Bid Documents

The Consultant shall submit to the City a final design (PS&E) package associated with construction bid documents for the project, or as requested by the City, based on funding limits and available budget. The final design package shall include the following:

- a. One (1) full-size set of stamped final design plans (36"x 24" or 34" x 22", signed by the City's Engineering Division Director, ADA Coordinator and Traffic Engineer).
- b. Five (5) full-size copies of final design plans (36"x 24" or 34"x 22").
- c. Five (5) half-size copies of final design plans (12"x 18" or 11"x17").
- d. One (1) hard copy and one electronic copy of the final cost estimate.

- e. Three (3) bound final sets and one (1) electronic copy of complete bidding documents, including wage rates and signed advertisements.
- f. Review of contractor submitted “As-Built plans”, preparation and submittal of “As-Built” drawings” two (2) 36” x 24” or 34” x 22” hard copy and on CD in AutoCAD format (version 2015 or more current).

PHASE IV – CONSTRUCTION MANAGEMENT SERVICES (IF REQUIRED)

1) Construction Engineering and Management

The City may require Construction Engineering and Management Services during construction. If required, a portion or all the services listed below will be negotiated and added by an amendment to the original contract.

The construction phase will commence with the award of the construction contract and continues until the one-year warranty inspection and report is submitted by the Consultant and approved by the City. The Consultant shall be the representative of the City during the construction phase and shall advise and consult with the City Project Manager regarding construction activities for the duration of the construction phase. Construction phase services will include the resolution of problems encountered during construction. Any additional design services not caused by errors and/or omissions and requested by the City will be authorized by an amendment to the agreement. Any amendments to the agreement shall establish the additional work requirements, amend the contract as required and adjust the time schedules.

The Consultant shall fully execute and participate in the following tasks to implement the construction of the Project in conformance with the plans and specifications:

- a. Preconstruction meeting with the Construction Contractor, Owner, Utilities.
- b. Construction Contractor Notice to Proceed.
- c. Daily construction observation, oversight, inspection and daily diary entry.
- d. Construction management basic services including:
 - i. Review of Construction Contractor material submittals or shop drawings.
 - ii. General project review and response to Construction Contractor’s requests for information and clarification.
 - iii. Verify structure drawings.
 - iv. Change order review and preparation.
 - v. Claims review, documentation, and correspondence.
 - vi. Provide “As-Constructed Quantities”.
 - vii. Receive, review and approve progress payments (to be forwarded to the City).
 - viii. Preparation and authorization of field inspections and punch lists.
 - ix. Review of contractor submitted “As-Built plans”, preparation and submittal of “As-Built” drawings on mylar prints (36”x 24) and on CD in AutoCAD format (version 2000 or more current); and
 - x. Two-year warranty inspection and report

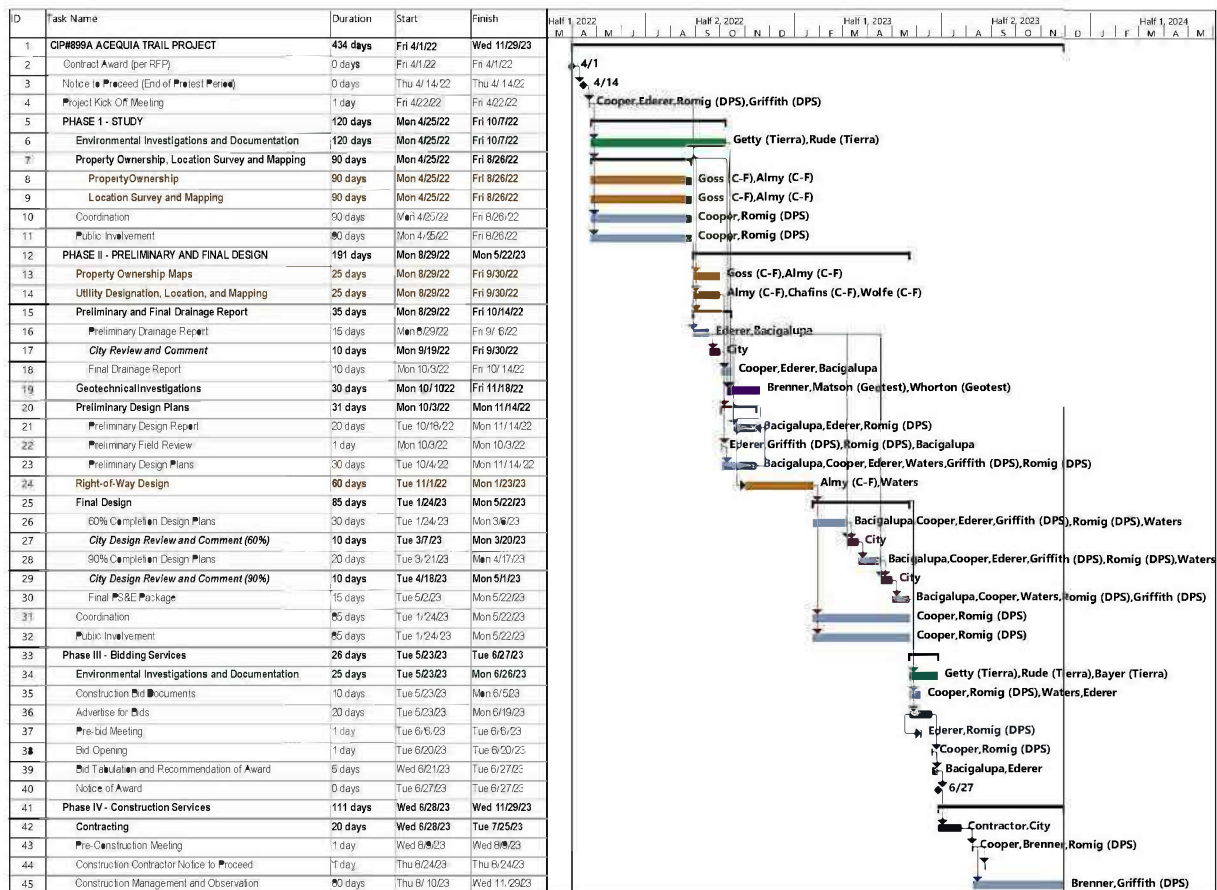
2) Public Involvement

The City may require Public Involvement Services during construction. If required, a portion or all the services listed below will be negotiated and added by an amendment to the original contract.

The Consultant shall be responsible for the implementation and cost of all public information coordination which may include, but is not limited to, providing construction updates and schedules through a project website and media (television, radio and newspaper) press releases and responding to agency and public concerns and comments. Attendance to periodic (most likely weekly) project meetings between the construction contractor, City personnel and other agencies will be required to obtain schedules and notify the public, property owners, businesses, emergency response, transit and other transportation users of road, lane or access closures, detours and other construction activities that may impact traffic. It is essential the Consultant maintain on-going communication with project construction personnel to ensure accurate dissemination of construction related activities to the public.

PROJECT SCHEDULE

As much as possible, the Consultant needs to adhere to the project schedule below. If there are delays that cannot be avoided, the Consultant needs to obtain approval from Public Works Project Administrator/Manager.



2. Standard of Performance; Licenses.

A. The Contractor represents that Contractor possesses the personnel, experience and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed based upon deliverables described in Paragraph 1 "Scope of Work", such compensation not to exceed five hundred twenty-four thousand four hundred six dollars and fifteen cents (\$524,406.15), excluding gross receipts tax (Exhibit A). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling forty-four thousand two hundred forty-six dollars and seventy-seven cents (\$44,246.77) 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 five hundred sixty-eight thousand six hundred fifty-two dollars and ninety-two cents (568,652.92). 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.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on four (4) years from signature of the City 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 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 City 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.

5. Appropriations.

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.

6. Status of Contractor.

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 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 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 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. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

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 Santa Fe City Code, 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 NMSA 1978, sec. 38-3-2 . By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

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. Other Insurance

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

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

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

C. Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any

Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

21. 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

22. 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.

23. 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.

24. 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.

25. 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.

26. 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:
Regina Wheeler
Public Works Department Director
City of Santa Fe
PO Box 909, Santa Fe, NM 87504-0909
Email: rawheeler@santafenm.gov

To the Contractor:
David "Sonny" Cooper, P.E.
Project Manager
Weston Solutions, Inc.
3840 Commons Avenue, Albuquerque, NM 87109
Email: sonny.cooper@westonsolutions.com

27. 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.

28. 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.

29. Non-Collusion.

In signing this Agreement, the Contractor certifies the 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's Chief Procurement Officer.

30. Default/Breach.

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the City may procure the goods or services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the City may also seek all other remedies under the terms of this Agreement and under law or equity.

31. Equitable Remedies.

The Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the City irreparable harm and that a remedy at law for such a failure would be an inadequate remedy for the City, and the Contractor consents to the City's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. The City's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that the City may have under applicable law, including, but not limited to, monetary damages.

32. Default and Force Majeure.

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

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:



ALAN WEBBER
MAYOR

DATE: Mar 31, 2022

CONTRACTOR:

Weston Solutions, Inc.,



Digitally signed by David Cooper
Date: 2022.02.09 13:29:13 -07'00'

DAVID COOPER, PE
PROJECT MANAGER

DATE: 2/9/2022

CRS#01-168547-00-6

Registration # 225321

ATTEST:



KRISTINE BUSTOS MIHELICIC, CITY CLERK

GB MTG 03/30/2022



CITY ATTORNEY'S OFFICE:



SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:



MARY MCCOY, FINANCE DIRECTOR

3559980 - 572960

Org. Name/Org#.

Att
AH