

**CITY OF SANTA FE
GENERAL SERVICES CONTRACT**

Services

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and **Santa Fe Fiesta, Inc.** herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. Definitions

A. "Products and Services Schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

C. "You" and "your" refers to **Santa Fe Fiesta, Inc.** "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. Scope of Work

A. The Contractor shall perform the following work:

1) Advertise, publicize and promote Santa Fe as a tourism destination by reference in response to Resolution No. 2013-29 for: Fiesta years FY24, FY25, FY26 & FY 27.

2) Promote and market the project regionally and nationally through media coverage and placements that emphasize target markets. All advertising must be targeted at an audience more than 60 miles from Santa Fe increase the probability of overnight visitors.

3) Improve marketing effectiveness by providing Santa Fe businesses with opportunities to tie-in to cultural events in Santa Fe by attracting audiences as demonstrated with statistical and demographic information about audience attendance.

4) Encourage the cultural development of Santa Fe by maintaining high standards of artistic and cultural excellence as demonstrated by an ongoing series of performances, exhibitions and/or services.

5) Strengthen the position of the arts and culture as an integral part of Santa Fe by:

a. Providing cultural benefits and preserving the cultural identity of

Santa Fe; and

b. Providing access to all special constituencies.

6) Demonstrate administrative competency through planning, quality programming and realistic budgeting.

7) Coordinate all advertising planning and execution efforts with the staff of TOURISM Santa Fe for the purpose of uniting the advertising message with the theme of the overall city efforts. A marketing plan (any advertising being purchased) will be delivered to TOURISM Santa Fe prior to implementation and must be approved in writing by TOURISM Santa Fe.

8) Allow the TOURISM Santa Fe advertising agency of record to participate in the development and implementation of the marketing plan including creative work and advertising placement. Costs related to the use of the agency will be a part of the use of the funds provided by this agreement.

9) Provide a report to the City of the results of the advertising project 90 days after the end of the event.

3. Compensation

The City shall pay to the Contractor based upon fixed prices for each Deliverable item as listed here.

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 FY24		\$50,000
02 FY25		\$50,000
03 FY26		\$50,000
04 FY27		\$50,000

The total compensation under this Agreement shall not exceed two hundred thousand dollars (\$200,000), including New Mexico gross receipts tax.

4. Payment Provisions

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

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

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

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on June 30, 2027. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract 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 sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

A. Grounds. The City may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the City's uncured, material breach of this Agreement.

B. Notice: City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 17, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

8. Amendment

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

9. Status of Contractor

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any

claims for money due or to become due under this Agreement without the prior written approval of the City.

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

In signing this Agreement, the Contractor/Contractor certifies the Contractor/Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

13. **Inspection of Plant**

The City may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

14. **Commercial Warranty**

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **Condition of Proposed Items**

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in

Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

21. **Approval of Contractor Representative(s)**

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

22. **Scope of Agreement; Merger**

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

23. **Notice**

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

25. **Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor

shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

26. **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.

27. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-2. 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.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any City response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the City; and (5) the Contractor's response to the request for proposals.

30. **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.

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

If this contract is for the purchase of services, the following terms shall apply.

A. Services, as used in this Article, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Agreement requires. The City has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services do not conform with the requirements of this Agreement, the City may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

- (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or
- (2) terminate the contract for default.

33. **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 a 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.

34. **Impracticality of Performance**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

35. **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.

36. **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.

37. **Patent, Copyright and Trade Secret Indemnification**

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

- 1) give the Contractor prompt written notice within 48 hours of any claim;
- 2) allow the Contractor to control the defense of settlement of the claim; and
- 3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;

- 2) replace or modify the product or service so that it becomes non-infringing;

or,

3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

The Agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability" shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

39. **Disclosure Regarding Responsibility**

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or

related entities.

C. The Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

40. **Suspension, Delay or Interruption of Work**

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed

to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City:

TOURISM Santa Fe, Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 505-955-6209, 201 West Marcy Street, Santa Fe, NM 87501

To the Contractor:

Santa Fe Fiestas Inc; Victor Vigil, President, vicvigil@aol.com, 505-231-4616, PO Box 4516, Santa Fe, NM 87502

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

To the Contractor:

Santa Fe Fiestas Inc; Victor Vigil, President, vicvigil@aol.com, 505-231-4616, PO Box 4516, Santa Fe, NM 87502

42. **Succession**

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

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

CITY OF SANTA FE:

CONTRACTOR:
SF FIESTAS, INC.

John Blair
John Blair (Apr 9, 2023 17:37 MDT)

JOHN BLAIR, CITY MANAGER

Victor Vigil
Victor Vigil (Mar 7, 2023 12:36 MST)

VICTOR VIGIL, PRESIDENT

DATE: Apr 9, 2023

DATE: _____
CRS #02188396003
Registration #224940

ATTEST:

Kristine Bustos Mihelcic
KRISTINE BUSTOS MIHELICIC, CITY CLERK
XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Mar 6, 2023 15:45 MST)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

Emily K. Oster (Mar 31, 2023 22:33 MDT)

EMILY OSTER, FINANCE DIRECTOR

2130523.510400 EH

VSF Prog/Evt/Grants & Services



City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: SANTA FE FIESTA COUNCIL, INC.
DBA: SANTA FE FIESTA COUNCIL,
INC.

Business Location: PO BOX 4516
SANTA FE, NM 87502

Owner: SANTA FE FIESTA COUNCIL, INC.

License Number: 224940

Issued Date: February 24, 2023

Expiration Date: February 24, 2024

CRS Number: 02188396003

License Type: Business License - Renewable

Classification: Business Registration - Standard

Fees Paid: \$35.00

SANTA FE FIESTA COUNCIL, INC.
PO BOX 4516
SANTA FE , NM 87502-4516

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT.
APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY
OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION OR THE
INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO
OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE



City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3203941

Contractor: Santa Fe Fiestas

Description: Funding for the promotion of the annual Santa Fe Fiestas

Contract Agreement Lease / Rent Amendment

Term Start Date: FY24 Term End Date: June 30, 2027

Approved by Council Date: _____

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: _____

Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments) under resolution 2013-29 TOURISM provides funding every year for the promotion of the Annual Santa Fe Fiestas. This is a new agreement over 4 year term.

3. Procurement History: _____

[Signature] Mar 16, 2023
Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: Sole Source posted for 30-days without protest

4. Funding Source: VSF Program & Events/Grants & Services Org / Object: 2130523.510400

Andy Hopkins Mar 16, 2023
Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: Shirley Spencer Phone # 6208

Email: sjspencer@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

ITT Representative (attesting that all information is reviewed) _____ Title _____ Date _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
03/02/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Daniels Insurance, Inc.-Santa Fe 805 St. Michaels Drive Santa Fe NM 87505	CONTACT NAME: Michael Latting PHONE (A/C, No, Ext): (505) 982-4302 FAX (A/C, No): (505) 989-9186 E-MAIL ADDRESS: mlatting@danielsinsuranceinc.com												
INSURER(S) AFFORDING COVERAGE													
INSURED (505) 995-0934 Santa Fe Fiesta Inc. P.O. Box 4516 Santa Fe NM 87502	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">INSURER A: Philadelphia Indemnity Insuran</td> <td style="width: 20%; text-align: center;">NAIC # 18058</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER A: Philadelphia Indemnity Insuran	NAIC # 18058	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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INSURER B:													
INSURER C:													
INSURER D:													
INSURER E:													
INSURER F:													

COVERAGES **CERTIFICATE NUMBER:** Cert ID 34463 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			PHPK2429087	07/01/2022	07/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2429087	07/01/2022	07/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB819814	07/01/2022	07/01/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
	DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)						
	Where required by written contract or agreement, the Certificate Holder is included as an Additional Insured on the General Liability policy. Certificate Holder is listed as Additional Insured in regards to General Liability. RE: All Fiesta Events.						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Where required by written contract or agreement, the Certificate Holder is included as an Additional Insured on the General Liability policy. Certificate Holder is listed as Additional Insured in regards to General Liability. RE: All Fiesta Events.

CERTIFICATE HOLDER City of Santa Fe P.O. Box 909 Santa Fe NM 87504-0909	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	--

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1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2013-29**

3 **INTRODUCED BY:**

4
5 Mayor Coss

6 Councilor Bushee

7 Councilor Wurzbarger

8
9
10 **A RESOLUTION**

11 **RELATING TO THE 2013/2014 BUDGET AND SUBSEQUENT FISCAL YEAR BUDGETS,**
12 **SUBJECT TO AVAILABLE APPROPRIATIONS MADE BY THE GOVERNING BODY;**
13 **AUTHORIZING THE DESIGNATION OF CONVENTION AND VISTOR BUREAU (CVB)**
14 **FUNDS FOR AGREEMENTS THAT WILL PROMOTE TOURIST RELATED**
15 **ATTRACTIONS, FACILITIES AND EVENTS WITH THE SANTA FE FIESTA COUNCIL,**
16 **THE LENSIC AND THE SANTA FE BANDSTAND USING LODGERS' TAX PROCEEDS.**

17
18 **WHEREAS,** pursuant to the Lodgers' Tax Act Sections 3-38-13 to 3-38-24 NMSA 1978,
19 and the New Mexico Taxation and Revenue regulation 2.105.2.8 NMAC, the City of Santa Fe is
20 authorized to adopt ordinances imposing occupancy tax for revenues on lodging establishments
21 within municipal boundaries or within that part of the county outside of municipal boundaries; and

22 **WHEREAS,** the City has enacted its Lodgers' Tax Ordinance SFCC 18-11 and collects and
23 receives lodgers' tax; and

24 **WHEREAS,** eligible uses for the lodgers' tax proceeds include the promoting tourist-related
25 attractions, facilities and events of the city and tourist facilities or attractions within the area; and

1 **WHEREAS**, the Santa Fe Fiesta Council, the Fiesta de Santa Fe, the Santa Fe Bandstand,
2 and the Lensic are tourist-related events and/or tourist facilities and/or tourist attractions that need
3 promotion by the City as detailed herein; and

4 **WHEREAS**, the Fiesta de Santa Fe has been annual New Mexico tradition since 1712 when
5 the original Fiesta Proclamation was issued by the Santa Fe City Council; and

6 **WHEREAS**, the annual event brings together the community of Santa Fe, visitors from
7 around New Mexico and our Country as well as international visitors; and

8 **WHEREAS**, the Santa Fe Fiesta Council has been, and continues to be, a not-for-profit
9 organization whose only function and purpose is to be primarily responsible for Fiesta de Santa Fe,
10 including securing funding for the annual event; and

11 **WHEREAS**, the Santa Fe Bandstand was founded in 2002 and since that time has become an
12 essential part of an authentic “Summer in Santa Fe” experience- for locals and tourists alike; and

13 **WHEREAS**, many new and exciting changes are coming to the Bandstand this year,
14 including:

- 15 • Expanded Bandstand season length, from seven weeks last year to over nine weeks this
16 year
- 17 • Selected Friday and Saturday Nights have been added to 2013 season schedule, allowing
18 more young families and working Santa Feans to come down to the Plaza in the evening
- 19 • More Programming Diversity – more types of music for more types of music lovers
- 20 • Live Premium Night Webcasting to a national audience

21 **WHEREAS**, the Lensic, Santa Fe’s Performing Arts Center, is recognized as a major tourist
22 attraction and tourist facility and economic driver for the overall Santa Fe economy and particularly
23 the downtown area; and

24 **WHEREAS**, the Lensic contributes to the overall reputation of Santa Fe as a cultural and arts
25 tourism destination; and

1 **WHEREAS**, Fiesta de Santa Fe, Santa Fe Bandstand and the Lensic provide substantive
2 programming that promotes tourism in Santa Fe and, therefore, enhances Santa Fe's economy; and

3 **WHEREAS**, the City's lodgers' tax funding is needed to be used for the promotion of tourist
4 attractions and events related to the Fiesta de Santa Fe, Santa Fe Bandstand and the Lensic because
5 such tourist attractions and tourist events draw tourists from around the Country and the globe which
6 contributes to Santa Fe's economy and increases gross receipts tax revenues of the City which
7 benefits all citizens of Santa Fe; and

8 **WHEREAS**, currently Fiesta de Santa Fe, Santa Fe Bandstand and the Lensic each receive
9 funding in varying amounts that do not total \$50,000 each, on an annual basis through grants and
10 contracts administered by the CVB and the Arts Commission.

11 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
12 **CITY OF SANTA FE** that the Governing Body authorizes for the 2013/2014 budget and
13 subsequent fiscal year budgets, subject to available appropriations made by the Governing Body, a
14 set-aside designation of lodgers' tax funds for:

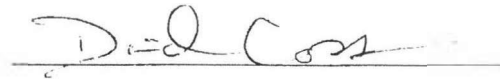
- 15 1. An annual agreement with the Santa Fe Fiesta Council in a total amount of \$50,000
16 in lodgers' tax funds in return for in-kind services that equal or exceed \$50,000 in
17 total services provided by the Santa Fe Fiesta Council to the City. The Santa Fe
18 Fiesta Council shall use the funds for eligible uses of lodgers' tax proceeds in
19 accordance with the Lodgers' Tax Act and the New Mexico Taxation and Revenue
20 Department regulation 2.105.2.8 NMAC.
- 21 2. An annual agreement with the Santa Fe Bandstand in a total amount of \$50,000 in
22 lodgers' tax funds in return for in-kind services that equal or exceed \$50,000 in total
23 services provided by the Santa Fe Bandstand to the City. The Santa Fe Bandstand
24 shall use the funds for eligible uses of lodgers' tax proceeds in accordance with the
25 Lodgers' Tax Act and the New Mexico Taxation and Revenue Department regulation

1 2.105.2.8 NMAC.

- 2 3. An annual agreement with the Lensic in a total amount of \$50,000 in lodgers' tax
3 funds in return for in-kind services that equal or exceed \$50,000 in total services
4 provided by the Lensic to the City. The Lensic shall use the funds for eligible uses of
5 lodgers' tax proceeds in accordance with the Lodgers' Tax Act and the New Mexico
6 Taxation and Revenue Department regulation 2.105.2.8 NMAC.

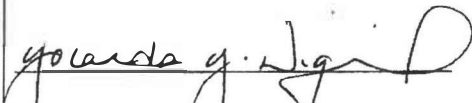
7 **BE IT FURTHER RESOLVED** that the funding designated in this resolution is intended to
8 replace all future fiscal years' funding agreements and is effective beginning July 1, 2013."

9 PASSED, APPROVED, and ADOPTED this 27th day of March, 2013.

10
11 

12 DAVID COSS, MAYOR

13 ATTEST:

14
15 
16 YOLANDA Y. VIGIL, CITY CLERK

17 APPROVED AS TO FORM:

18
19 
20 GENO ZAMORA, CITY ATTORNEY



City of Santa Fe, New Mexico

Memorandum



DATE: March 8, 2023

TO: John Blair, City Manager

VIA: Emily Oster, Finance Department Director
Travis Dutton-Leyda, CPO
Richard D. Brown, Community Development Director

FROM: Randy Randall, TSF Executive Director

ITEM AND ISSUE:

Request for the Approval of Service Agreement in the Total Amount of \$200,000 over a Four Year Term (FY24-FY27) for Inkind Services; Vendor: Santa Fe Fiestas, Victor Vigil, President, vicvig11@aol.com, 505-231-4616; Department Contact: Randy Randall, TSF Executive Director, rRANDALL@santafenm.gov, 505-955-6209.

BACKGROUND AND SUMMARY:

Under resolution 2013-29 the city of Santa Fe provides Lodgers' tax funding in return for in-kind services that equal or exceed \$50,000 in yearly total. This funding support helps to promote and market the Santa Fe Fiestas.

PROCUREMENT METHOD:

The procurement method is Sole Source. Attached is the determination and sole source approval.

CONTRACT NUMBER:

3203941.

FUNDING SOURCE:

The funding source is:

Fund Name/Number: Lodgers Tax Fund/Fund 213

Munis Org Name/Number: VSF PrgEvt/2130523

Munis Object Name/Number: GrantsSvcs/510400

ACTION REQUESTED:

TOURISM Santa Fe respectfully requests your review and approval.

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Fiestas

Procurement Title: Santa Fe Fiestas

Procurement Method: State Price Agreement Cooperative Sole Source Other

Exempt Request For Proposal (RFP) Invitation To Bid (ITB) Contract under 60K Contract over 60K

Department Requesting TOURISM Santa Fe Staff Name Shirley Spencer

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES N/A

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Approved Procurement Checklist (by Purchasing) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Memo addressed to City Manager (under 60K) Committees/City Council (over 60K) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | State Price Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | RFP |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Evaluation Committee Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | ITB |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Bib Tab |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Quotes (3 valid current quotes) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Cooperative Agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Sole Source Request and Determination Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contractors Exempt Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Purchasing Officers approval for exempt procurement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | BAR |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | FIR |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Executed Contract, Agreement or Amendment |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Current Business Registration and CRS numbers on contract or agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Summary of Contracts and Agreements form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Certificate of Insurance |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | All documentation presented to Committees |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other: |

Shirley Spencer Administrative Manager 3/8/23

Department Rep Printed Name (attesting that all information included) Title Date

Shirley Spencer Contracts Supervisor Mar 16, 2023

Purchasing Officer (attesting that all information is reviewed) Title Date

ITT Representative (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.



City of Santa Fe, New Mexico



SOLE SOURCE REQUEST AND DETERMINATION FORM

This sole source request form must be submitted to the City of Santa, Purchasing Division for authorization, determination and processing by the Chief Procurement Officer (CPO).

Please ensure to complete this form in its entirety - () must be completed.*

*Date: 1/11/2023

*Prepared By Shirley Spencer

*Title Administrative Manager

*Vendor Name Santa Fe Fiestas Inc.

*Address: PO Box 4516

*City: Santa Fe

*State: NM

*Zip Code: 87502

*Description of Goods/Service to be procured:

*Estimated Cost:

200,000

Term of Contract:

One (1) to Four (4) year from award FY24 – FY27

*Sole Source Request Justification Questions 1-3.

1. Explain the purpose/need of purchase. Ensure to include a thorough scope of work for the services, construction or items of tangible personal property (if this is an amendment request to an existing contract, attach current contract).

The Contractor should provide the following services for the City:

- A. Advertise, publicize and promote Santa Fe as tourism destination by reference in response to Resolution No. 2013-29 – for: Fiesta years FY24-FY27.
- B. Promote and market the project regionally and nationally through media coverage and placements that emphasize target markets. All advertising must be targeted at an audience more than 60 miles from Santa Fe to increase the probability of overnight visitors.
- C. Improve Marketing effectiveness by providing Santa Fe businesses with opportunities to tie-in to cultural events in Santa Fe by attracting audiences as demonstrated with statistical and demographic information about audience attendance.
- D. Encourage the cultural development of Santa Fe by maintaining high standards of artistic and cultural excellence as demonstrated by an ongoing series of performances, exhibitions and/or services.
- E. Strengthen the position of the arts and culture as an integral part of Santa Fe by:
 - a. Providing cultural benefits and preserving the cultural identity of Santa Fe; and
 - b. Providing access to all special constituencies
- F. Demonstrate administrative competency through planning, quality programming and realistic budgeting.
- G. Coordinate all advertising planning and execution efforts with the staff of TOURISM Santa Fe for the purpose of uniting the advertising message with the theme of the overall city efforts. A marketing plan (any advertising being purchased) will be delivered to TOURISM Santa Fe prior to implementation and must be approved in writing by TOURISM Santa Fe.
- H. Allow the TOURISM Santa Fe advertising agency of record to participate in the development and implementation of the marketing plan including creative work and advertising placement. Costs related to the use of the agency will be a part of the use of the funds provided by this agreement.
- I. Provide a report to the City of the results of the advertising project 90 days after the end of the event.



City of Santa Fe, New Mexico



2. Provide a detailed explanation of the criteria developed and specified by the department as necessary to perform and/or fulfill the contract.

The contractor has affirmed sole source for the services, construction or items of tangible personal property (*Attach memo from vendor*). Provide documentation of due diligence for other possible vendors/contractors to provide the requested services/goods proved unsuccessful; or

Other: explanation of the reasons, qualifications, proprietary rights or unique capabilities (*unique and how this uniqueness is substantially related to the intended purpose of the contract*) of the prospective contractor that makes the prospective contractor *the one source* capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the “best” source or the “least costly” source. Those factors do not justify a “sole source.”) *Unique and how this uniqueness is substantially related to the intended purpose of the contract.*

The funds are set aside for Santa Fe Fiestas Inc. per Resolution 2013-29

3. Explain why other similar professional services, services, construction or item(s) of tangible personal property *cannot* meet the intended purpose of the contract.

Lodger's tax funds in exchange for in-kind services that are equal or exceed the allowable \$50,000 funding.



City of Santa Fe, New Mexico



***Approvals:**

Based on the above facts, the City of Santa Fe Purchasing Officer has made the determination that the justification for a Sole Source procurement is in accordance with the State Procurement Code, Section 13-1-126 Sole source procurement., NMSA 1978 and shall be posted for a 30-day period prior to award.

Jan 30, 2023

Joanne Lovato, CPO
Purchasing Officer for the
City of Santa Fe

Date

Pursuant to the State Procurement Code, Section 13-1-126 Sole source procurement., NMSA 1978, the 30-day posting period of the Notice of Intent to Award this Sole Source request was met and no obligation to the award to the above referenced contractor were received. *This Sole Source determination will be valid for a period of one (1) year from the date of the award.*

3.1.23

Joanne Lovato
Purchasing Officer for the
City of Santa Fe

Date

***Required Attachments:**

****Letter from Contractor acknowledging they are the only source (on their business letterhead and signed by the head of business or financial operations),***

****Quote from sole source Contractor***

****Agenda Item to be presented to City Council if over \$60,000 for Professional Services and \$60,000 for Goods and Non-Professional Services***

From: [LOVATO, JOANN D.](#)
To: [SPENCER, SHIRLEY J.](#)
Subject: Fwd: Resolutions: Procurement or Not?
Date: Wednesday, January 11, 2023 2:43:34 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Shirley,

After speaking with my colleagues and with Legal, a 30 day Sole Source posting will be required to obtain a contract for these Resolutions.

Please prepare the necessary SS documents and email them over for approval. Please also send the SOW for a determination of services.

Thank you.

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: LOVATO, JOANN D.
Sent: Wednesday, January 11, 2023 1:40:24 PM
To: MARTINEZ, MARCOS D. <mdmartinez@santafenm.gov>
Cc: SANCHEZ, KATHY S. <kssanchez@santafenm.gov>; GUNTER, RAYMOND S. <rsgunter@santafenm.gov>
Subject: RE: Resolutions: Procurement or Not?

Marcos,

Thank you for your feedback. We will proceed with a 30-day SS posting for both.

Thanks,

JoAnn D. Lovato
Contracts Supervisor
c: (505) 469-6045



From: MARTINEZ, MARCOS D. <mdmartinez@santafenm.gov>
Sent: Wednesday, January 11, 2023 1:35 PM
To: LOVATO, JOANN D. <jdlovato@santafenm.gov>
Cc: SANCHEZ, KATHY S. <kssanchez@santafenm.gov>; GUNTER, RAYMOND S. <rsgunter@santafenm.gov>
Subject: Re: Resolutions: Procurement or Not?

Dear Joann:

My recommendation is that the City issue sole source postings for these awards. The City is paying money for services, and, based on the resolutions, the City asserts that there is only one entity, the Rodeo or the Fiesta Council who can put on these events. If a member of the public were to challenge the solicitation, then the City might have to re-visit the assumptions implicit in the resolutions. But at least the postings will protect the City in the event that someone asks how the City awarded these

entities money and whether anyone else can do the work.

Best,
Marcos

This message may be subject to the attorney client privilege. 11-503 NMRA. If you have received this message in error, please delete it and alert the sender. 16-404(B) NMRA.

From: LOVATO, JOANN D. <jdlovato@santafenm.gov>
Sent: Wednesday, January 11, 2023 10:24 AM
To: MARTINEZ, MARCOS D. <mdmartinez@santafenm.gov>
Cc: SANCHEZ, KATHY S. <kssanchez@santafenm.gov>; GUNTER, RAYMOND S. <rsgunter@santafenm.gov>
Subject: Resolutions: Procurement or Not?

Good morning dear sir! Hope you are doing well and had a wonderful holiday!

I would like to pick your brain please... Tourism needs to issue contracts based on the attached resolutions. One is for the Rodeo de Santa Fe & NM Gay Rodeo Association and the other for SF Fiesta Council. In the past, the SF Fiesta Council contract was handled as a Sole Source procurement and the Rodeo contract was handled somewhat like an RFA as there was no procurement done and an MOA was the resulting agreement. I can see it handled both ways but am leaning more towards the latter. This is the first I've come across a Resolution so I'm trying to understand what the process is.

Since the Resolutions are allocating funding to a particular vendor for a specific purpose, there is no need for a competitive solicitation. So, I guess I need to understand how the Resolution comes into play here... I don't see this as a procurement, but we are paying for services..

I've chatted with Kathy and thought we'd see what your input is on the subject, as again, it can go potentially go either way.

What are your thoughts on how this should be handled?

Thank you!

Shirley's (from Tourism) email:

Although sole source was the procurement method for the past 5 years (1 year term in FY18 and then the four-year term FY19-23). Shirley Rodriguez, past Procurement Chief approved the procurement determination as sole source and had us post to website for 30 days but it seems wrong - why post- if resolution notes this is for Fiestas de Santa Fe?

**We also, have another resolution for the Rodeos (Rodeo de SF and NMGRA) - these are the same deal but the procurement method (was exempt?) per Fran Dunaway notes an MOA needs to be used and notes on the summary of contracts: donation no procurement process. No procurement checklist?
Attached is the MOA's packets and resolution for Rodeos. I think Fiestas should be the same as Rodeo's....Yes?**

Last, Legal told me that MOA's do not have money tied to them - SO is MOA correct?

To be honest - I think no-one has given a clear answer on Fiestas. Hope you can guide

us....Thanks!

Shirley

JoAnn D. Lovato
Contracts Supervisor
c: (505) 469-6045



From: LOVATO, JOANN D.
Sent: Wednesday, January 11, 2023 8:56 AM
To: SPENCER, SHIRLEY J. <sispencer@santafenm.gov>
Cc: GUNTER, RAYMOND S. <rsgunter@santafenm.gov>; SANCHEZ, KATHY S. <kssanchez@santafenm.gov>
Subject: RE: Procurement Determination for Fiestas

Hi Shirley,

Sole Sources, by law, must be posted for 30-days... so yes, that part is correct if it was at the time deemed a SS by the CPO. However, I don't think it should be a Sole Source at all. Now that I read through the Resolution, I'm thinking Fran's method is the correct way to proceed in these cases. It's funding specifically allocated to these entities for a specific purpose... we are not purchasing anything...

I will speak with Kathy and Scott to get their take on Resolutions when they get in and get back to you.

Thanks.

JoAnn D. Lovato
Contracts Supervisor
c: (505) 469-6045



From: SPENCER, SHIRLEY J. <sispencer@santafenm.gov>
Sent: Tuesday, January 10, 2023 3:22 PM
To: LOVATO, JOANN D. <jdlovato@santafenm.gov>; Purchasing DET <purchasing_det@santafenm.gov>
Cc: GUNTER, RAYMOND S. <rsgunter@santafenm.gov>
Subject: RE: Procurement Determination for Fiestas

Hi Joanne,

Thank you for the reply.

Although sole source was the procurement method for the past 5 years (1 year term in FY18 and then the four-year term FY19-23). Shirley Rodriguez, past Procurement Chief approved the procurement determination as sole source and had us post to website for 30 days but it seems wrong – why post- if resolution notes this is for Fiestas de Santa Fe?

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To be honest – I think no-one has given a clear answer on Fiestas. Hope you can guide us....Thanks!

Shirley

From: LOVATO, JOANN D. <jdlovato@santafenm.gov>
Sent: Tuesday, January 10, 2023 2:06 PM
To: SPENCER, SHIRLEY J. <sspencer@santafenm.gov>; Purchasing DET <purchasing_det@santafenm.gov>
Cc: GUNTER, RAYMOND S. <rsgunter@santafenm.gov>
Subject: RE: Procurement Determination for Fiestas

Hi Shirley-

I pulled up the Munis contract to get the Procurement docs and looks like this was procured as a Sole Source in 2019. There has to be a procurement method always... Because the Resolution specifies the Santa Fe Fiesta Council as the recipient of the funds, I imagine this upcoming method will be a sole source as well. However, there are multiple companies who can provide marketing/advertising/promotion...

Has this been your experience when a Resolution is involved? I haven't been around long enough to see a Resolution mandate a SS.

Scott... thoughts?

This is the part of the Resolution which says how the funds should be utilized.

CITY OF SANTA FE that the Governing Body authorizes for the 2013/2014 budget and subsequent fiscal year budgets, subject to available appropriations made by the Governing Body, a set-aside designation of lodgers' tax funds for:

1. An annual agreement with the Santa Fe Fiesta Council in a total amount of \$50,000 in lodgers' tax funds in return for in-kind services that equal or exceed \$50,000 in total services provided by the Santa Fe Fiesta Council to the City. The Santa Fe Fiesta Council shall use the funds for eligible uses of lodgers' tax proceeds in accordance with the Lodgers' Tax Act and the New Mexico Taxation and Revenue Department regulation 2.105.2.8 NMAC.
2. An annual agreement with the Santa Fe Bandstand in a total amount of \$50,000 in lodgers' tax funds in return for in-kind services that equal or exceed \$50,000 in total services provided by the Santa Fe Bandstand to the City. The Santa Fe Bandstand shall use the funds for eligible uses of lodgers' tax proceeds in accordance with the Lodgers' Tax Act and the New Mexico Taxation and Revenue Department regulation

JoAnn D. Lovato
Contracts Supervisor
c: (505) 469-6045



From: SPENCER, SHIRLEY J. <sispencer@santafenm.gov>
Sent: Tuesday, January 10, 2023 11:46 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Subject: Procurement Determination for Fiestas

Hi,

I need to determine what the procurement is for a contract that has a resolution. I need to renew a four-year agreement in the total amount of 200K. the current agreement (expires 6/30/23) and is attached for your reference along with the Resolution.

Also, if no procurement is needed – what do I put down on the summary of contracts and purchasing checklist?

Thank you in advance of this request.

Shirley Spencer












23-0128 Santa Fe Fiesta, Inc.

Final Audit Report

2023-04-11

Created:	2023-03-27
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdncU0hpcjIpxCZJwHA76RRLG1a8A4kJd

"23-0128 Santa Fe Fiesta, Inc." History

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-  Signer jwblair@santafenm.gov entered name at signing as John Blair
2023-04-09 - 11:37:19 PM GMT- IP address: 76.113.49.66
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-  Document emailed to Kristine Mihelcic (kmmihelcic@santafenm.gov) for signature
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Document e-signed by Kristine Mihelcic (kmmihelcic@santafenm.gov)

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