

CITY OF SANTA FE  
CONSTRUCTION CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Apache Construction Co., Inc. dba Valley Fence Company**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

**RECITALS**

**WHEREAS**, the City has let this Contract according to the established State and Local Purchasing procedures for contracts of the type and amount let; and

The CITY and the CONTRACTOR agree:

**1. Scope of Work.**

A. The Contractor shall perform the following work and as described in Exhibit "A" attached hereto:

Install solar powered swing gate operators, 40 watt solar panels, battery powered operators, exit and safety sensors, 5 remote controls, Bluetooth phone activators, panel on 12 foot high post, pipe gates to cover openings with 3" heavy pipe, 6 5/8" mounting posts, steel plates for unit and welded in place.

The Contractor shall be responsible for verifications of all conditions, measurements, and dimensions for bidding.

The Contractor shall be responsible for all permits, fees, and State inspections associated with the construction.

B. Project: Ragle Park Parking Lot Gates, 2530 W. Zia Rd., Santa Fe, NM

C. City Department: Public Works, Parks Division

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed such compensation not to exceed \$24,855.00, excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the City to the Contractor, as follows:

The Unit Bid Contract Total is determined as follows:

Base Bid	\$24,855.00
Gross Receipts Tax (8.3125%)	\$1,926.26
<i>Base Bid plus NMGRT</i>	\$26,781.26

**The total amount payable to the Contractor under this Agreement, including Alternates (if needed) gross receipts tax and expenses, shall not exceed \$26,781.26. 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 **June 30, 2023** 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. Construction Contract Performance and Payment Bond.**

A. When a construction contract is awarded in excess of twenty-five thousand dollars (\$25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Award of the contract shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars (\$125,000) or more.

**8. 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.

**9. 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.

**10. 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.



**11. 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.

**12. 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 Cityship by or on behalf of the Contractor.

**13. 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.

**14. 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.

**15. Change Orders.**

A. Changes. The Contractor may only make changes or revisions within the Scope of Work as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the City Manager or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

- 1) Deliverable requirements, as outlined in the Scope of Work;
- 2) Due date of any Deliverable, as outlined in the Scope of Work;
- 3) Compensation of any Deliverable, as outlined in the Scope of Work;
- 4) Agreement compensation, as outlined in Article 2; or
- 5) Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1) The Project Manager shall draft a written Change Request for review and approval by the City Manager to include:

- (a) the name of the person requesting the change;
- (b) a summary of the required change;
- (c) the start date for the change;
- (d) the reason and necessity for change;
- (e) the elements to be altered; and
- (f) the impact of the change.

2. The City Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the City Manager are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.

**16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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.

**21. 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.

**22. 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. Business Automobile Liability** insurance for all owned, non-owned automobiles, with a combined single limit not less than \$1,000,000 per accident.

**C. 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.

**D.** 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.

**23. 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

**24. 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.

**25. 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.

**26. 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.

**27. 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.

**28. 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:                   Melissa A. McDonald  
                                     Parks and Open Space Director  
                                     1142 Siler Rd., Santa Fe NM 87505  
                                     mamcdonald@santafenm.gov

To the Contractor:       Valley Fence Company  
                                     David Garcia  
                                     P.O. Box 12312, Albuquerque, NM 87195  
                                     vfc.david@aol.com

**29. 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.

**30. Progress Payments.**

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

**31. Liquidated Damages.**

Should the Contractor neglect, refuse, or otherwise fail to complete the work within the Contract Time for Physical Completion or any extension in the Contract thereof, the Contractor agrees to pay the City the amount specified in section 108.8 Liquidated Damages in the 2014

Edition (NMDOT SSHBC), per consecutive calendar day that passes until Physical Completion and acceptance or until voided pursuant to the provisions of the General Conditions of the Contract, not as a penalty, but as liquidated damages for such breach of the Contract.

**32. Final Payment.**

Final payment, constituting the entire unpaid balance of the Contract sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

**33. Schedule.**

The Contractor shall, within five (5) days after the effective date of Notice to Proceed, prepare and submit a progress schedule covering project operations for the 30 day Contract period. This progress schedule shall be of the type generally referred to as a Critical Path Method (CPM), Critical Path Schedule (CPS), and Critical Path Analysis (CPA), and other similar designations. The CPM shall be used to control the timing and sequences of the project. All work shall be done in accordance with the CPM Planning and Scheduling. A written statement of explanation shall be submitted with the progress schedule. All costs incurred by the contractor to implement the CPM shall be borne by the Contractor, and are part of their Contract.

**34. General and Special Provisions**

A. Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to be in compliance with the law.

C. This Agreement shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Agreement.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. 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 illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Agreement.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Agreement shall be attached to this Agreement at the time of execution, and are hereby incorporated by reference as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws effective during the term of this Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

K. Interchangeable Terms. For purposes of all provisions within this Agreement and all attachments hereto, the terms "Agreement" and "Contract" shall have the same meaning and shall be interchangeable.

L. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

M. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

N. Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including Sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3, NMSA 1978) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (Sections 13-1-28 through 13-1-199, NMSA 1978) imposes civil and criminal penalties for its violation.

O. Pursuant to Section 13-4-11. NMSA 1978, Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

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:

John Blair  
John Blair (May 19, 2023 15:13 MDT)

JOHN BLAIR, CITY MANAGER

DATE: May 19, 2023

CONTRACTOR:

Apache Construction Co., Inc. dba Valley  
Fence Company

Paul Chavez  
NAME

Paul Chavez-PRESIDENT

TITLE

DATE: 3-15-23  
CRS# 01-165-805-003

Registration # \_\_\_\_\_

ATTEST:

Kristine Bustos  
Geraldyn Cardenas (May 19, 2023 15:13 MDT)

KRISTINE BUSTOS MIHELICIC, CITY CLERK *XIV*

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Mar 14, 2023 10:49 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster  
Emily K. Oster (May 17, 2023 23:29 MDT)

EMILY OSTER, FINANCE

Org. Name/Org# 3559980/572970 AH  
AH





## QUOTATION / ACCEPTANCE

### VALLEY FENCE COMPANY

A Division of A.C.C.I.

**PREPARED FOR:**

CITY OF SANTA FE PARKS  
200 LINCOLN AVE  
SANTA FE, NEW MEXICO 87504

Phone: 505-629-7435  
email: jsharp@santafenm.gov

P.O. Box 12312  
Albuquerque, NM 87195  
Telephone (505) 877-1155  
Fax (505) 877-5301

**Friday, April 17, 2023**

Date: **Friday, April 17, 2023**  
Delivery: \_\_\_\_\_  
Terms: \_\_\_\_\_  
F.O.B.: \_\_\_\_\_  
Bid Date: \_\_\_\_\_

Project No. **RAGLE PARK**

ITEM	QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL AMOUNT
1	2 EACH	SOLAR POWERED SWING GATE OPERATORS, 40 WATT SOLAR PANELS, BATTERY POWERED OPERATORS, EXIT AND SAFETY SENSORS, 5 REMOTES CONTROLS, BLUETOOTH PHONE ACTIVATORS, PANEL ON 12 FOOT HIGH POSTS, PIPE GATES TO COVER OPENINGS, 3" HEAVY PIPE, 6 5/8" MOUNTING POSTS, STEEL PLATES FOR UNIT AND WELDED INPLACE, PRICE IS MATERIALS AND LABOR TO INSTALL.	LUMP SUM	\$ 24,855.00
TAX RATE	7.75000%			TAX 1,926.26
			Total	\$ 26,781.26

**TERMS: PAYABLE ON DATE OF THIS CONTRACT UNLESS OTHER TERMS ARE PROVIDED HEREIN:**

VALLEY FENCE COMPANY agrees to guarantee above fence to be free from defects in materials for one year. Exclusion: Warranty does not cover warping or shrinkage on any wood products. Gate operators warranty for ninety days.

VALLEY FENCE COMPANY shall advise the customer as to local zoning regulations but responsibility for complying with said regulations and obtaining any required permits shall rest with the customer.

VALLEY FENCE COMPANY will assist the customer, upon request, in determining where the fence is to be erected, but under no circumstance does VALLEY FENCE COMPANY assume any responsibility concerning property lines or in any way guarantee their accuracy. If property pins cannot be located, it is recommended that the customer have the property surveyed.

The customer will assume all liability for any damage caused by directing VALLEY FENCE COMPANY to dig in the immediate vicinity of known utilities.

The final billing will be based on the actual footage of fencing built and the work performed. Partial billing for materials used on this job and adjustments for labor will be charged or credited at the currently established rates. Additional charges for any extra work not covered in this contract that was requested by the customer will also be added. The full amount of any additional charges will become payable upon completion of all work whether or not it has been invoiced.

A finance charge of 1 1/2% per month (or a minimum of \$1.00), which is an annual percentage rate of 18%, shall be applied to accounts that are not paid within 30 days after completion of any work invoiced. All materials will remain the property of VALLEY FENCE COMPANY until all invoices pertaining to this job are paid in full within 30 days. All warranties are void in total if sum is not received within thirty days. Right of access and removal is granted to VALLEY FENCE COMPANY in the event of non-payment under these terms of this contract.

CONTRACT TOTAL	APPROVED & ACCEPTED FOR CUSTOMER	
Contract Amount:	X	DAVID GARCIA 505-304-3891 VFCDAVID@AOL.COM
NMGRT:	Customer Date	
	X	
Total Contract:	Customer Date	



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** April 20, 2023

**TO:** John Blair, City Manager

**VIA:**

Regina Wheeler, Public Works Department Director

Melissa McDonald, Parks and Open Space Division Director *MM*

**FROM:** Jason Sharp, Park Ranger

**ACTION:** Request for approval of a Construction Contract for the manufacture and installation of a solar powered gate with Apache Construction Co. Inc. DBA Valley Fence Company in the total amount of \$26,781.26 inclusive of GRT. (Jason Sharp, Park Ranger: [jtsharp@santafenm.gov](mailto:jtsharp@santafenm.gov), 505-629-7435)

### BACKGROUND AND SUMMARY:

The installation of a solar powered automatic gate at Ragle Park will help reduce crime and vandalism. In addition this gate will have Blue Tooth activators, eliminating the need to send staff out to open and close the gate every day.

### PROCUREMENT METHOD

NM Statewide Price Agreement (SWPA) #20-00000-21-00028 AC which expires on 1/30/2024.

### CONTRACT NUMBER:

Munis Contract #3203968

### FUNDING SOURCE:

**Fund Name/Number:** PARKSTRAILS/ 355

**Munis Org Name/Number:** PRKS TRAILS/3559980

**Munis Object Name/Number:** WIP CONSTRUCTION /572970

### ATTACHMENTS:

Contract

Proposal

SWPA

Certificate of Insurance

Business License

Horizons letter of declination

Summary of Contracts

Procurement Checklist

Reviewed By:

*Halona Crowe*

Halona Crowe  
Business Operations Manager



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/06/2023

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).

<b>PRODUCER</b> Downey & Company 6565 AMERICAS PARKWAY NE SUITE 750 ALBUQUERQUE NM 87110	<b>CONTACT NAME:</b> Carolyn Nasi <b>PHONE (A/C, No, Ext):</b> (505) 881-0300 <b>E-MAIL ADDRESS:</b> cnasi@downeyandco.com <b>FAX (A/C, No):</b> (505) 881-0908
<b>INSURED</b> Apache Construction Company, Inc. DBA: Valley Fence Company Post Office Box 12312 Albuquerque NM 87195	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Donegal Mutual Insurance Company <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

**COVERAGES****CERTIFICATE NUMBER:** 2022-2023**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"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CPT9164254	12/31/2022	12/31/2023	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 \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CA9164254	12/31/2022	12/31/2023	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"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			CXL9164254	12/31/2022	12/31/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> 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)

PROJECT: FORT MARCY AND RAGLE PARKS GATES

**CERTIFICATE HOLDER****CANCELLATION**CITY OF SANTA FE  
PARKS AND OPEN SPACE DIRECTOR  
1142 SILER RD  
SANTA FE

NM 87505

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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## City of Santa Fe

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

## BUSINESS REGISTRATION

**Business Name:** APACHE CONSTRUCTION COMPANY  
DBA: VALLEY FENCE CO.

**Business Location:** 1932 COORS BLVD SW  
ALBUQUERQUE, NM 87121

**Owner:** APACHE CONSTRUCTION COMPANY

**License Number:** 227242

**Issued Date:** October 26, 2022

**Expiration Date:** October 26, 2023

**CRS Number:** 01165805003

**License Type:** Business License - Renewable

**Classification:** Out of Jurisdiction Contractor -  
General

**Fees Paid:** \$10.00

APACHE CONSTRUCTION COMPANY  
P.O. BOX 12312  
ALBUQUERQUE, NM 87195

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**

 Reply  Reply All  Forward  IM




Mon 2/6/2023 1:48 PM

Joseph Perez <[jperez@horizonsofnewmexico.org](mailto:jperez@horizonsofnewmexico.org)>

Re: City of Santa Fe Contract Opportunity

To  SHARP, JASON T.

 If there are problems with how this message is displayed, click here to view it in a web browser.

 Bing Maps

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We will respectfully decline this opportunity.

Kind regards,

**Joseph Perez**  
**Regional Marketing Manager**  
Horizons of New Mexico  
6121 Indian School Rd. NE, Suite 102  
Albuquerque, NM 87110

office phone: (505) 345-1540  
email: [jperez@horizonsofnewmexico.org](mailto:jperez@horizonsofnewmexico.org)  
web: [www.horizonsofnewmexico.org](http://www.horizonsofnewmexico.org)

On Mon, Feb 6, 2023 at 1:44 PM SHARP, JASON T. <[jtssharp@santafenm.gov](mailto:jtssharp@santafenm.gov)> wrote:

Dear Mr. Soliz

The Parks Department is accepting bids to manufacture and install automated gates at Fort Marcy and Ragle Parks. If there is any interest in pursuing this we would need to arrange a time to meet to survey the sites. We would then need an estimate for parts and labor.

Thank You,



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 3203968

Contractor: Apache Construction Co., dba Valley Fence Company

Description: Installation of an automated gate at entry to parking lot

Contract ☒ Agreement ☐ Lease / Rent ☐ Amendment ☐

Term Start Date: tbd Term End Date: 6/30/2023

☐ 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)

3. **Procurement History:** \_\_\_\_\_

*Andy Hopkins*

Purchasing Officer Review:

May 9, 2023

Date:

Comment & Exceptions: Procured using SWPA

4. **Funding Source:** PARKSTRAILS 355

**Org / Object:** 3559980/572970

*Andy Hopkins*

Andy Hopkins (May 8, 2023 11:23 MDT)

Budget Officer Approval:

May 8, 2023

Date:

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Jason Sharp Phone # 505-629-7435

Email: jsharp@santafenm.gov

### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



## CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Apache Construction Co., dba Valley Fence Company

Procurement Title: Ragle Park automated entry gate

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 Public Works- Parks Div. Staff Name Jason Sharp

### 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 checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" 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:

Jason Sharp Parks Division Ranger 3/21/2023

Department Rep Printed Name (attesting that all information included) Title Date  
 Contracts Supervisor May 9, 2023

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

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













# 23-0230 Apache Construction Co., Inc dba Valley Fence

Final Audit Report

2023-05-19

Created:	2023-05-15
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAC_o0GEp5Exe7oOE4vHtvRsyPgcGF5wJt

## "23-0230 Apache Construction Co., Inc dba Valley Fence" History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)  
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2023-05-15 - 5:45:51 PM GMT
-  Email sent to jtsharp@santafenm.gov bounced and could not be delivered  
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-  Email viewed by ekoster@santafenm.gov  
2023-05-18 - 5:27:25 AM GMT- IP address: 104.47.65.254
-  Signer ekoster@santafenm.gov entered name at signing as Emily K. Oster  
2023-05-18 - 5:29:24 AM GMT- IP address: 69.254.154.77
-  Document e-signed by Emily K. Oster (ekoster@santafenm.gov)  
Signature Date: 2023-05-18 - 5:29:26 AM GMT - Time Source: server- IP address: 69.254.154.77
-  Document emailed to jwblair@santafenm.gov for signature  
2023-05-18 - 5:29:27 AM GMT
-  Email sent to jtsharp@santafenm.gov bounced and could not be delivered  
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-  Email viewed by jwblair@santafenm.gov  
2023-05-19 - 9:13:07 PM GMT- IP address: 76.113.49.66
-  Signer jwblair@santafenm.gov entered name at signing as John Blair  
2023-05-19 - 9:13:23 PM GMT- IP address: 76.113.49.66





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Signature Date: 2023-05-19 - 9:13:25 PM GMT - Time Source: server- IP address: 76.113.49.66



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Agreement completed.

2023-05-19 - 9:13:57 PM GMT