



City of Santa Fe, New Mexico

Memorandum



DATE: February 15, 2024

TO: John Blair, City Manager *John Blair*
John Blair (Feb 20, 2024 14:19 MST)

VIA: Regina Wheeler, Public Works Department Director *Regina Wheeler*
Regina Wheeler (Feb 15, 2024 14:23 MST)
Rich Brown, Community Development Director *Richard Brown*

FROM: Tim Farrell, Facilities Division, Property Development Manager *Timothy Farrell*

ACTION:

Request for the Approval of a Professional Services Contract in the Total Amount of \$150,000, Including GRT, with WSP USA, Inc. for Owner's Representative Project Manager Services to Support Redevelopment at Midtown. (Tim Farrell, Facilities Division Property Development Manager, tgfarrell@santafenm.gov, 505-490-1659)

BACKGROUND AND SUMMARY:

Pursuant to Resolution #2022-12, the Midtown Master Plan was adopted by the Governing Body on November 30, 2022 (Resolution #2022-68), and the Midtown Community Development Plan was adopted on January 25, 2023 (Resolution #2023-5). Also pursuant to Resolution #2022-12, the City of Santa Fe released requests for proposals (RFPs) for the redevelopment of the Midtown Studios Production Lot, the Visual Arts Center, and Garson Theater in December 2022. An Early Negotiation Agreement (ENA) for the development of the Midtown Studios Production Lot was approved by the Governing Body on July 26, 2023.

To continue supporting the ENA process and early developments at Midtown beyond the previously approved \$60,000 Purchase order on 8/29/23, it is imperative the City continue to fund and advance the infrastructure planning and design. The Owner Representative/Project Manager role brings urban redevelopment expertise and experience to help manage the City's Infrastructure project. The current phase includes the sitewide stormwater plan, complete streets, utilities, sidewalks, and other spine infrastructure. The Owner Representative Project Manager will begin to identify all the program elements and map out necessary infrastructure development actions in a critical path schedule to support successful redevelopment. They will also assist with parcellation and development negotiations as needed. WSP's proposal demonstrates that the company has the capacity and expertise to perform this work.

Engineering and design services will be provided by separate firms via RFPs which are underway and CES as needed. The Owner Representative/Project Manager will help the City to ensure the successful planning and execution of the necessary scopes, processes, and deliverables for engineering and other services required for the Midtown redevelopment project.

Funding for the Owner Representative and Project Management Contract is from FY23 New Mexico Gross Receipts Tax earned in excess of budgeted revenues.

PROCUREMENT METHOD:

The procurement method is the Cooperative Educational Services Price Agreement (CES) CES Contract #'s 2023-01-C211-ALL which expires on October 5, 2026.

FUNDING SOURCE:

The funding source is NMGRT Prior Year Excess funds.

Project Name/Ledger ID: Midtown Improvements/MTC245250D-Design

Fund Name/Number: MIDTOWN CIP/525

Munis Org Name/Number: MTC CapPrj/5250610

Munis Object Name/Number: WIP Design/572960

ATTACHMENTS:

WSP Contract

WSP Proposal(s)

WSP Project Schedule

WSP Procurement Documents (CES)

WSP Certificate of Insurance

WSP Business License

Summary of Contracts

Procurement Checklist

Item #: 24-0112

Munis Contract #: 3204433

CES Contact#: 2023-01-C211-ALL

CITY OF SANTA FE
PROFESSIONAL SERVICES CONTRACT

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the “City,” and **WSP USA, Inc.**, hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Parties.

RECITALS

WHEREAS, the Chief Procurement Officer of the City has made the determination that this Agreement is in accordance with the provisions of the New Mexico Procurement Code (NMSA 1978, 13-1-28 et seq.) pursuant to NMSA 1978, section 13-1-135; and

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

The City and the Contractor hereby agree as follows:

1. Definitions

Infrastructure: The services and facilities that support a built environment, including but not limited to: utilities including water, waste water/sewer, surface and stormwater management and drainage, electricity, natural gas, and telecommunications including Internet access; all components of public rights of way including roads, bicycle and pedestrian paths, sidewalks, trails, parking, lighting, traffic signals, and property entrances; parks, open spaces, civic spaces, and fixtures therein (e.g., child play structures, public seating).

Predevelopment: Phase of project between establishing the Master Plan and Development Plan and entering into development agreements and initiating design of infrastructure. Considers various aspects and risks and focuses on financing and identifying steps to prepare for development activities.

2. Scope of Work

The purpose of the Owner’s Representative services described in this scope of work is to assist

and represent the City of Santa Fe to establish and oversee an ongoing programmatic approach to implement the Infrastructure of the Midtown Master Plan and Community Development Plan (“Project”).

The redevelopment of the Santa Fe Midtown Site (“Site”) includes a goal of advancing sustainable, resilient, and regenerative development, while creating green infrastructure that serves as interactive public amenities and learning experiences. The Master and Community Development Plans support the development of a mixed-use district with block, street, open spaces, parcel, and density patterns and designs that create a walkable, health-oriented, connected, multi-modal urban place. The approaches to and outcomes of this scope of work shall be guided by and support that goal.

WSP shall provide on-call services to the City for pre-development through development activities. Work shall be phased in alignment with private and City development plans at the Site.

WSP shall report to the Director of the Office of Metropolitan Redevelopment Agency (“MRA”), Director of Public Works, in the Public Works Department (“PWD”) or designee. All work performed must be approved in advance by the Director of Public Works, MRA Director or designee. Requests for assistance relating to Infrastructure made directly by Director of the Department of Community and Economic Development, the Office of Economic Development, and/or the MRA should be referred to the Director of Public Works for approval prior to any work being done to ensure availability of funds.

WSP made the following assumptions in making its offer that limit the scope of its work in this contract:

- WSP shall not provide design services
- The engineer of record (EOR) shall be responsible for performing QC/QA on all deliverables prior to review by WSP.

PHASE 1

Phase 1 is substantially complete and consists of the following tasks. Work on Phase 1 was commenced under a purchase order and will be completed pursuant to this Agreement.

TASK 1.1 – INITIAL PROJECT ESTABLISHMENT

WSP shall support development of preliminary and general Project Infrastructure development as follows:

- Prepare an initial Critical Path Schedule for Infrastructure and Disposition and Development Agreement (“DDA”) support.
- Organize a regular meeting schedule and process focused specifically on Project Infrastructure.

TASK 1.2 – INFRASTRUCTURE PREDEVELOPMENT, ENGINEERING, AND TECHNICAL REVIEW SERVICES

WSP shall identify the immediate needs to organize the predevelopment and engineering for Infrastructure.

- Assist MRA Director, PWD Director or designee in writing or reviewing the initial infrastructure scope(s) and/or RFPs which are for or include Infrastructure development.
- Assist in the review and selection of the predevelopment, engineering and design team(s) relating to Infrastructure. Note: the firm Opticos is the master plan consultant to the Office of Economic Development. Coordination with Opticos may be required.

TASK 1.3 – FILM STUDIO PRODUCTION LOT DEVELOPER NEGOTIATIONS SUPPORT

WSP shall provide Infrastructure predevelopment and engineering support to the PWD, MRA, and the City's chosen developer(s) in predevelopment and finalizing terms pertaining to Infrastructure and public improvements in a Disposition and Development Agreement for the redevelopment and expansion of the Midtown Studio Production Lot.

PHASE 2 OVERALL AND ONGOING SCOPE OF WORK

TASK 2.1 – PROJECT ESTABLISHMENT

WSP shall provide feedback to MRA Director, PWD Director or designee upon request relating to Infrastructure engineering and project management during predevelopment and development .

1. WSP shall provide input to prepare and/or feedback on Infrastructure components of drafts of Project Management Plans, Critical Path Schedules, and other key activities of the Project upon request by PWD or the MRA.
2. Continue development of the Critical Path Schedule

WSP shall refine the initial Critical Path Schedule for Infrastructure in coordination with the MRA to ensure coordination of the Project development process. WSP shall prepare and submit:

Initial schedule to focus on the first two (2) years;

- Phasing plan for Infrastructure in anticipation of MRA's redevelopment schedule and disposition of parcels, as well as Project readiness in alignment with the funding plan and PMP
 - Milestones for developers, the City and other entities related to Infrastructure
3. Development of a Risk Management Plan for Infrastructure engineering
- Identify potential schedule risks relating to Infrastructure development.
 - Create a risk register relating to Infrastructure development.

4. Work in coordination with the MRA to prioritize risks and identify mitigation and allocation strategies to manage schedule and other Project risks with emphasis on addressing the Critical Path Schedule and appropriate risk allocation to promote implementation
5. WSP shall assist the MRA in preparing a Funding Plan for Project Infrastructure based on the preliminary time-based financial plan for the needs analysis By providing:
 - Expected costs for infrastructure and developer incentives, including timing for the outlay of those costs;
 - Available funding and financing sources including grants (state legislative grants, federal grants, NMDOT grants, environment department grants); value capture mechanisms (TID, PID); bond revenue; private and public financing.
 - Timelines for when the funding/financing will be needed.

TASK 2.2 – PROJECT IMPLEMENTATION

Provide expertise to support the implementation of the Project once the initial Project is established, as follows:

1. Assessment of Public Infrastructure Improvements and Plans
 - Upon request of the MRA or Director of Public Works, WSP shall provide the following services:
 - Drafting or reviewing and advising on scope(s) of work for technical and engineering team developing and/or impacting Infrastructure;
 - Reviewing and advising on RFP responses and selection of most qualified technical team(s);
 - Reviewing and advising on predevelopment and design work, scope, budget, invoicing, and schedule;
 - Advising on phasing of predevelopment, design and construction schedules and solicitation process relating to infrastructure;
 - Advising regarding RFP responses and selection of construction teams;
 - Advise on construction, scope, budget, invoicing, and schedule; and
 - Reviewing and advising on change orders, requests for clarifications, and other administrative issues typically arising in the bid, construction, and close-out phases of construction.
2. Assessment of Development Proposals and Plans for Infrastructure

- Upon request by the MRA or Director of Public Works, WSP shall:
- Review and advise on Developer pro formas and other financial information for Infrastructure to assess the financial viability and responsiveness of the proposal;
- Review and advise on concept plans and other designs to assess the engineering and design feasibility and responsiveness of the proposal with respect to Infrastructure;
- Assist in preparing requests for additional information directed to bidders or offerors;
- Assist with drafting responses to developer due diligence requests, such as requests to access the property
- Participate in pre-submission meetings for RFPs related to development.

3. Coordination with Third Party Stakeholders when requested by the Director of Public Works or MRA:

- Engage adjacent property owners, utilities, and other third parties to assess potential impacts and risks to Project implementation.
- Develop and negotiate agreements with such third parties.

TASK 2.4 – INFRASTRUCTURE ENGINEERING/TECHNICAL REVIEW SERVICES

WSP shall provide technical review services in collaboration with the PWD related to Infrastructure at the Site. This contract does not include WSP acting as the Engineer of Record (EOR) for the project. Upon request by the Director of Public Works or MRA, WSP shall help to write or review the initial infrastructure scope(s) of work, review and select the most qualified firms, and review the deliverables developed by the EOR and provide comments and recommendations.

Technical reviews and services shall include but not be limited to:

- Review of Plans and Plats
- Design Analysis Reports (DARs)
- Drainage Reports
- Design Plans at all phases
- Conformance to standards and specifications
- Construction Contract Book, including but not limited to special provisions, Notices to Contractors, and/or other supplemental contract documents
- A/E Contract Exhibit Review

- Safety Studies
- Traffic Impact Analysis
- Lighting and Signalization Reports
- Engineering Estimates Opinions of Probable Cost
- Value Engineering

Reviews shall be conducted utilizing Bluebeam software to track comments, verify changes and document design decisions. The EOR shall be responsible for providing QC/QA on all deliverables prior to submittal to the City and review by WSP.

- Meetings and Field Visits: WSP attend project development and review meetings in person or virtual depending on project needs.
- Deliverable Items: Technical review of design plans, studies, and other relevant data provided by engineering consultant at each design milestone (Bluebeam markup)
- Schedule: Dependent on project timeline determined by project needs and phasing.

TASK 2.5 – STAKEHOLDER MEETINGS

1. Internal Stakeholder Meetings

WSP shall attend meetings of the City’s Midtown Leadership Team to participate in and contribute to the advancement of the Midtown Project as directed by PWD. WSP shall also attend Infrastructure Team meetings as directed by the Director of Public Works. WSP will also support presentations to the Governing Body and Council Committees.

2. External Key Stakeholder Meetings

Upon request by the MRA Director, WSP shall support briefing external stakeholders such as developers, community groups, state regulators, at regular intervals on the progress of the Project.

TASK 2.6 – ONGOING PROJECT SUPPORT

WSP shall provide:

1. Schedule and document management, funding plans, reporting, communications, and phasing of public infrastructure and its intersection with private development
2. Representation of the City for purposes of Project Infrastructure as described in this Agreement.
3. Coordination with other City consultants working on Project as directed by the Director

of Public Works.

TASK 2.7 – TASK ADMINISTRATION

WSP shall:

1. Submit monthly invoices and monthly reports.
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2. Representation of the City for purposes of Project Infrastructure as described in this Agreement.
3. Coordination with other City consultants working on Project as directed by the Director of Public Works.

TASK 2.7 – TASK ADMINISTRATION

WSP shall:

1. Submit monthly invoices and monthly report.
2. Attend project meetings and stay in communication with the City's Midtown Leadership Team.
3. Maintenance of project site and document management
 - All pertinent project records shall be tracked and stored in good order, all documents and presentations shall be professional, all invoices shall include a progress report and be timely.
 - Ensure that all work products and supporting documents are maintained in a repository readily accessible to all team members.

All documents and work products are the property of the City of Santa Fe and will be provided to the MRA Director by WSP upon termination of this agreement.in communication with the City's Midtown Leadership Team.

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3. Standard of Performance; Licenses

A. The Contractor does hereby accept its designation as a professional service, rendering services related to Owner's Representation and Project Management Services for the City, as set forth in this Agreement. The Contractor represents that Contractor possesses the personnel, experience, and knowledge necessary to perform the services described under this Contract.

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

4. Compensation

A. The City shall pay to the Contractor in full payment for services satisfactorily performed based upon milestones, such compensation not to exceed Ninety-thousand dollars, including gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Contract totaling Seven thousand Three-hundred Sixty-eight dollars and seventy-five cents (\$7,368.75) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed Ninety-thousand dollars (\$90,000). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Contract 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 Contract 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 Contract 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. Payment in future fiscal years 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 fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.)

D. 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.

5. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Contract shall terminate **December 31, 2027**, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). The City reserves the right to renew this contract on an annual basis by mutual agreement not to exceed a total of four (4) years in accordance with NMSA 1978, Sections 13-1-150 through 152.

6. Termination

A. Grounds. The City may terminate this Agreement for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor, or their designee as authorized by the Governing Body. 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 6, "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.

7. Appropriations

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Contract. If sufficient appropriations and authorization are not made by the Governing Body, this Contract 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 Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

8. Status of Contractor

The Contractor and its agents and employees are independent contractors performing construction 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 Contract. 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.

9. Assignment

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the City.

10. Subcontracting

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

11. Release

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

12. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Contract 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.

13. Product of Service -- Copyright

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

14. Conflict of Interest; Governmental Conduct Act

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract 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 Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, 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 Contract 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 Contract 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 Contract to the contrary, the City may immediately terminate the Contract.

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

15. 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 Contract 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 Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

16. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with

respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

17. Merger

This Contract 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 contract.

Cooperative 13-1-135

This Contract is issued against the Cooperative Educational Services Master Agreement 2023-01-C211-ALL Design and Professional Services, Category 2 – Lot 1, Engineering and Consulting Services, established and maintained by Contractor, and through this language hereby incorporates this agreement by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

18. Penalties for violation of law

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

19. 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 Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

20. Applicable Law

The laws of the State of New Mexico shall govern this Contract, 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, section 38-3-2. By execution of this Contract, 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 Contract.

21. 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 Contract may be terminated by the City.

22. Professional Liability Insurance

Contractor shall maintain professional liability insurance throughout the term of this Contract 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 Contract.

23. Other Insurance

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

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

B. **Broader Coverage and Limits.** The insurance requirements under this Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, 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 Contract are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Contract 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.

24. 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 Contract's term and effect and retain them for a period of three (3) years from the date of final payment under this Contract. 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 Contract shall not foreclose the right of the City to recover excessive or illegal payments.

25. Indemnification

The Contractor shall 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 Contract, 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 Contract. If any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Contract 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.

26. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract 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 Contract modifies or waives any provision of the New Mexico Tort Claims Act.

27. Invalid Term or Condition

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable.

28. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract 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 Contract 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.

29. Notices

Any notice required to be given to either party by this Contract 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:

Tim Farrell
Property Development Manager
City of Santa Fe Public Works
2651 Siringo Road, Building E
Santa Fe, NM 87504
tgfarrell@santafenm.gov
505-490-1659

To the Contractor:

Daniel Sims

Senior Vice President
WSP USA Inc
5411 Sky Center Drive, Building 650
Tampa, FL 33607
Dan.sims@wsp.com

30. Authority

If Contractor is other than a natural person, the individual(s) signing this Contract 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 a binding contract.

31. Non-Collusion

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

32. Default/Breach

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

33. Equitable Remedies

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

34. Default and Force Majeure

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

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

CITY OF SANTA FE:

John Blair
John Blair (Feb 20, 2024 14:19 MST)

JOHN BLAIR,
CITY MANAGER

DATE: Feb 20, 2024

CONTRACTOR

Daniel Sims

DANIEL SIMS,
SENIOR VICE PRESIDENT

DATE: 1/18/24

CRS#: 01195458002

Registration #: 230689

ATTEST:

Geralyn Cardenas
Geralyn Cardenas (Feb 21, 2024 09:31 MST)

GERALYN CARDENAS, INTERIM CITY CLERK
XIV

CITY ATTORNEY'S OFFICE:

Kevin L. Nault
Kevin L. Nault (Feb 1, 2024 14:32 MST)

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster
Emily K. Oster (Feb 19, 2024 18:11 MST)

EMILY OSTER, FINANCE DIRECTOR

5250610/572960 AH
Org. Name/Org#: AH



City of Santa Fe

Treasury Department

200 Lincoln Ave.

Santa Fe, New Mexico 87504-0909

505-955-6551

BUSINESS REGISTRATION

Business Name: WSP USA INC.
DBA: WSP USA INC.

Business Location: 2440 LOUISIANA BLVD STE. 400
ALBUQUERQUE, NM 87110

Owner: Jodi Miller

License Number: 230689

Issued Date: August 16, 2023

Expiration Date: August 16, 2024

CRS Number: 01195458002

License Type: Business License - Renewable

Classification: Out of Jurisdiction Business License

Fees Paid: \$10.00

WSP USA INC.
4139 Oregon Pike Oregon Pike
EPHRATA, PA 17522

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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/8/2023

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 Arthur J. Gallagher Risk Management Services, LLC 300 Madison Avenue, 28th Floor New York NY 10017	CONTACT NAME: AJG Service Team PHONE (A/C, No, Ext): 212-994-7020 E-MAIL ADDRESS: GGB.WSPUS.CertRequest@ajg.com FAX (A/C, No): 212-994-7074
INSURED WSP USA Inc. One Penn Plaza New York, NY 10119	INSURER(S)AFFORDING COVERAGE INSURER A : QBE Specialty Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES**CERTIFICATE NUMBER:** 1318051649**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
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		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 \$
A	Professional Liability CLAIMS-MADE			QPL0022630	11/1/2023	10/31/2024	Per Claim Aggregate \$2,000,000 \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**THIRTY (30) DAYS NOTICE OF CANCELLATION**

RE: Project Number: 31000712.000. Project Description: Owner's Representative and Project Management Services for Midtown Redevelopment.

CERTIFICATE HOLDER**CANCELLATION**City of Santa Fe
PO Box 909
Santa Fe NM 87504

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

Summary of Contract, Agreement, Amendment & Lease

All applicable fields to be completed by department (complete 1.b only if you are processing an amendment):

1.a Munis Contract: 3204300 Procurement # (RFP/ITB# If any):

Contractor: WSP USA, Inc.

Procurement Method/Vehicle: Small Purchase ☐ RFP ☐ ITB ☐ Sole Source ☐ GSA ☐ Cooperative ☐ Exempt ☐ SWPA/Existing ☐

Description/Title: Owner's Representative and Project Management Services for Midtown Santa Fe Redevelopment.

Contract: ☒ Agreement: ☐ Lease/Rent: ☐ Amendment: ☐

Term Start Date: TBD Term End Date: 9/30/2027 Total Contract Amount: \$90,000.00

☐ Approved by Council (If over the City Manager's approval threshold, you must go through GB)

Contract / Lease: 3204300

1.b Amendment #: to the Original Contract/Lease #

Increase/(Decrease) Amount \$:

Extend Expiration Date to:

☐ Approved by Council (If the original went through GB, all amendments must go through GB regardless of the amendment reason) Date:

Amendment is for:

2. HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)

3. Procurement History: CES 2023-01-C123-ALL

Jordan Louisa Montezúo

Feb 19, 2024

Purchasing Officer Review:

Date:

Comment & Exceptions:

4. Funding Source: MIDTOWN Pro MTC245250D

Org / Object: 5250610/572960

Andy Hopkins

Andy Hopkins (Feb 26, 2024 16:50 MST)

Feb 16, 2024

Budget Officer Approval:

Date:

Comment & Exceptions:

5. Grant History (if applicable):

Grants Administrator Approval: Date

Staff Contact who Completed This Form: Tim Farrell

Phone #: 505-490-1659

To be recorded by City Clerk:

Clerk #

Email: tgfarrell@santafenm.gov

Date of Execution:

ITT Representative (attesting that all information is reviewed)

Title

Date

CITY OF SANTA FE PROCUREMENT CHECKLIST



Contractor Name: WSP USA, Inc

Procurement/contract Title: Owner's Representative and Project Management

Procurement Method/Vehicle: ☐ Sole Source ☐ State Price Agreement/Existing ☒ Cooperative ☐ Request For Proposals(RFP) ☐ Invitation To Bid (ITB) ☐ Exempt: 13-1-98

☐ Small Purchase (Contract Under \$60,000) ☐ Other: _____

Requesting Department: Public Works/Facilities Div

Staff Name: Tim Farrell

Procurement Requirements:

Procurement files shall be maintained for all purchases and contracts, regardless of the method of procurement. The procurement files shall contain the basis on which the awards are made, all submitted bids/proposals, all evaluation materials (bid tabs or Evaluation Committee Reports), scoresheets, quotations, and all other documentation related to or prepared in conjunction with evaluations, negotiations, and the award processes. The procurements shall contain written determinations from the Requesting Departments, signed by the Chief Procurement Officers (this document), setting forth the reasoning for the contract award decisions before submitting them to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING (CPD)

YES	N/A
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

Written Determination (srvs)

RFP - Confidential info to be provided to GB by CPD Buyer

ITB (include bid tab)

Other: _____

Cooperative Agreements and GSAs and Statewide Price Agreements (include the cover page to show valid date, s

Horizon Declination or Screenshot of horizonsofnewmexico.org/services.html (srvs)

Summary of Contract (only on contracts)

Current Santa Fe Business Registration (or Exemption if no tax)

Executed Contract or Price Agreement (legal and contractor must sign before purchasing approves)

Chief Procurement Officer (or designee) Approval for Exempt from Procurement (use memo on our site)

Evaluation Committee Report (RFPs only)

Signed Sole Source Determination, Vendor Written Quote, SS Letter from Contractors, and 30 Days Email

>20k = Memo addressed to City Manager (Under 150K) Committees/City Council (Over 150K)

YES	N/A
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

Quote(s) (3 Valid & Current for Over 20k)

BAR

FIR

Certificate of Insurance (srvs)

Tim Farrell

Department Point of Contact

Property Development Manager 2/12/2024

Title

Date

Regina Wheeler

Department Director

2/12/2024

Date

Jorina Lovato Montano

Chief Procurement Officer

Feb 19, 2024

Date

N/A

ITT Representative

Title

Date

24-0112 WSP USA, Inc.

Final Audit Report

2024-02-21

Created:	2024-02-21
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfQBU28j6t3wUX9x5xiicENxTD6Cq73_-

"24-0112 WSP USA, Inc." History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)
2024-02-21 - 4:25:14 PM GMT- IP address: 63.232.20.2
-  Document emailed to Geralyn Cardenas (gfcardenas@santafenm.gov) for signature
2024-02-21 - 4:25:47 PM GMT
-  Email viewed by Geralyn Cardenas (gfcardenas@santafenm.gov)
2024-02-21 - 4:31:46 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Geralyn Cardenas (gfcardenas@santafenm.gov)
Signature Date: 2024-02-21 - 4:31:59 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-02-21 - 4:31:59 PM GMT