



City of Santa Fe New Mexico

Memorandum



Date: April 8, 2024

To: John Blair, City Manager JB
JB

Via: Emily Oster, Finance Department Director ^{CKO}
Travis Dutton-Leyda, Chief Procurement Officer ⁴
Richard D. Brown, Community Development Director *Richard Brown*

From: Randy Randall, TSF Executive Director JR
Randy.Randall@cityofsf.org
Randy.Randall@cityofsf.org, 2024-16-98-MDT

Subject: Occupancy Tax Advisory Board (OTAB) Funding Contract
Clare Hertel/SF Literary Event

ITEM AND ISSUE:

Request for Approval of Professional Agreement in the Total Amount of \$15,000 for Santa Fe Literary Festival Marketing Efforts Utilizing 2024 Occupancy Tax Advisory Board (OTAB) Funding Program; Contractor Name: Clare Hertel, Event Name: Santa Fe Literary Festival 2024; Department Contact: Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 505-955-6209.

BACKGROUND AND SUMMARY:

The purpose of the OTAB funding program is to support the marketing efforts of third-party non-profit organizations to directly increase tourism through new, multi-year events. It can also fund non-profit efforts to increase the awareness of public relations worthy events that provide the potential for high visibility regional and national press exposure that does not, in and of themselves, created significant or immediate direct tourism expansion.

PROCUREMENT METHOD:

No procurement is required for the funding as we are not using funds to buy anything; we are simply granting funds to the awarded applicants. The applicants were selected from an application process that was posted on TOURISM Santa Fe website and other social media sites.

CONTRACT NUMBER:

The FY24 Munis contract number is 3204520.

FUNDING SOURCE:

VSF Program & Events/Grants & Services
2130523.510400 *AJH*

ACTION REQUESTED:

TOURISM Santa Fe respectfully requests your review and approval of Clare Hertel Agreement for Santa Fe Literary Festival Event 2024.



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: 3204520 Procurement # (RFP/ITB# If any)

Contractor: Clare Hertel/Santa Fe Literary Festival

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

Description/Title: Occupancy Tax Advisory Board (OTAB) Funding

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

Term Start Date: FY24 Term End Date: December 31, 2024 Total Contract Amount: 15,000

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

Contract / Lease:

1.b Amendment #: N/A 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)

This is the original Contract

3. Procurement History:

Purchasing Officer Review:

Apr 19, 2024

Date:

Comment & Exceptions:

4. Funding Source: Lodger's Tax, VSF Programs & Events/Grants & Services

Org / Object: 2130523.510400

Andy Hopkins

Apr 19, 2024

Budget Officer Approval:

Date:

Comment & Exceptions:

5. Grant History (if applicable):

Grants Administrator Approval: Date:

Staff Contact who Completed This Form: Shirley Spencer

Phone #: 6208

To be recorded by City Clerk:

Email: sjspencer@santafenm.gov

Clerk #

Date of Execution:

ITT Representative (attesting that all information is reviewed)

Title

Date

CITY OF SANTA FE PROCUREMENT CHECKLIST



Contractor Name: Clare Hertel/Santa Fe Literary Festival

Procurement/contract Title: Occupancy Tax Advisory Board (OTAB) Funding

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: OTAB Application for Grant Funding

Requesting Department: TOURISM Santa Fe

Staff Name: Shirley Spencer

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

Written Determination (srvs)

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

ITB (include bid tab)

Other: W/C Waiver

Cooperative Agreements and GSAs and Statewide Price Agreements (include the cover page to show valid date, page, and items to be purchased)

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 type="checkbox"/>	<input checked="" 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)

Shirley Spencer

Admin Mgr

4/8/24

Department Point of Contact

Title

Date

Randy Randall

4/8/2024

Randy Randall (Apr 8, 2024 10:34 AM MT)

Department Director

Date

[Signature]

Apr 19, 2024

Chief Procurement Officer

Date

ITT Representative

Title

Date

CoSF

Version 3 12.1.2023

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 **Clare Hertel**, 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 13-1-125

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

The City and the Contractor hereby agree as follows:

1. Scope of Work

The Contractor shall provide the following services for the City:

- A. The Contractor shall manage the promotion, all advertisements including, social media of event: Santa Fe International Literary Festival 2024
- B. Work will be in compliance with the application made to OTAB, attached as Exhibit I.
- C. Contractor shall develop a concept and design a brochure for event. Including all project materials, printing and distributing of the brochure, obtaining best prices.
- D. Contractor may subcontract with a third party to manage the event. Fifty percent of the cost of this contract will be reimbursed to a maximum of \$4,000.
- E. Contractor shall provide periodic reports to the Governing Body, at least quarterly, listing the expenditures for those periods. Within ten days of receiving the reports, the Governing Body shall furnish copies of them to the Santa Fe Occupancy Tax Advisory Board. Funds provided to the Contractor shall be maintained in a separate account established for that purpose and shall not be commingled with any other money.

2. Standard of Performance; Licenses

- A. The Contractor does hereby accept its designation as a professional service, rendering services related to advertising 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.

3. Compensation

A. The City shall pay to the Contractor in full payment upon completion of services for the event satisfactorily performed.

The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed FIFTEEN THOUSAND DOLLARS (\$15,000). 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.

E. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

F. Notice of Extended Payment Provision For Grant Funded Contracts. This contract allows the owner to make payment within 45 days after submission of an undisputed request for payment.

4. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Contract shall terminate **December 31, 2024** unless terminated pursuant to paragraph 5 (Termination), or paragraph 6 (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.

5. 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*

6. Appropriations

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Governing Body 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.

7. 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.

8. 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.

9. 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.

10. Release

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

11. 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.

12. 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.

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 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.

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 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.

15. 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.

16. 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.

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

17. 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.

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 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.

19. 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.

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 Contract may be terminated by the City.

21. 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.

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

B. **Broader Coverage and Limits.** The insurance requirements under this 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.

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 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.

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 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.

25. 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.

26. 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.

27. 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

28. 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: TOURISM Santa Fe, Randy Randall, Executive Director, 201 West Marcy Street
Santa Fe, NM 87501. rrandall@santafenm.gov

To the Contractor: SWAIA, Jamie Schulze, Executive Director, jschulze@swaia.org

29. 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.

30. 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.

31. 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.

32. 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.

33. Default and Force Majeure

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

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

CITY OF SANTA FE:

John Blair
John Blair (Apr 24, 2024 12:31 MDT)

JOHN BLAIR, CITY MANAGER

DATE: Apr 24, 2024

CONTRACTOR:

ELAKE HERTEL, CO-FOUNDER

DATE: Feb. 5, 2024

Registration#: 27556
CRS#03612215007

ATTEST:

[Signature]

GERALYN CARDENAS, INTERIM CITY CLERK
XIV

CITY ATTORNEY'S OFFICE:

Patricia Feghali
Patricia Feghali (Feb 8, 2024 12:02 MST)

ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

EMILY OSTER, FINANCE DIRECTOR

Lodger's Tax/VSF Programs & Events/Grants & Services
2130523.510400

AUH

Exhibit 1

APPLICATION FOR OCCUPANCY TAX FUNDING ASSISTANCE

Date of Application: October 6, 2023

Applicant's Name & Title: Clare Hertel, Co-Founder SFILF

Contact's Name (if different): _____

Contact's Numbers: (Office) 505-474-6783 Mobile) 505-670-3090

Contact's Email: Clare@Clarehertelcommunications.com

Organization's Name: Santa Fe International Literary Festival

Organization's Address: 3775 Old Santa Fe Trail, SF NM 87505

Phone Numbers: (Office) 505-474-6783 Mobile) 505-670-3090

Event Name: Santa Fe International Literary Festival

Check Box: New Event ☐ Existing Event ☒

Amount, if any, previously funded by OTAB.:

Year	Amount
2023	\$30,000

Event Location Address:

Santa Fe Community Convention Center

Federal Tax I.D. Number: 92-0751841 Tax Exempt: Yes: Fractured Atlas our Fiscal Sponsor

City of Santa Fe Business License Number: 2023-27556CERT

CRS Number: 03612215007

[Amount Requested: \$15,000]

Mark One:

Tourism Related Event ☒

High Impact Public Relations Event ☐

Exhibit 1

APPLICATION FOR OCCUPANCY TAX FUNDING ASSISTANCE

*Acknowledgement Certificate:

State of NM

County of Santa Fe

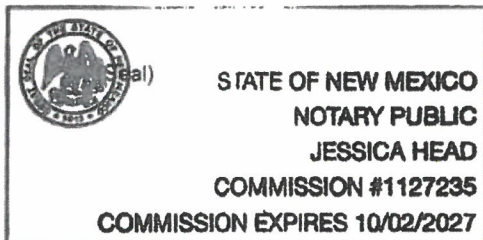
On this 5 day of Feb, 2024, I Clare Hertel certify that the information submitted for the Occupancy Tax Funding Assistance Application is true, exact and complete.

Clare Hertel
Acknowledger's Signature

Co-founder
Title/Position

Subscribed and sworn before me this 5th day of February, 2024

By: Clare Hertel



Jessica Head
Notary Public
My commission expires: 10/02/2027

Note: This application will not be accepted without full acknowledgement.

Exhibit 1

- c. Year three funding \$7,500 with other funding of at least \$22,500 for marketing
 - d. Year four, no additional funding
 - e. **Second and third year funding requires a separate application process and is not guaranteed.**
- * For the 2024 funding cycle, there is \$100,000 available.

- 16. The Contractor must maintain adequate liability insurance in at least the amount stated in the New Mexico Tort Claims Act (one million fifty thousand dollars **\$1,050,000**). A certificate of insurance must be provided by the Contractor's insurance carrier with the City of Santa Fe named as an additional insured. It is the sole responsibility of the Contractor to comply with the law.
 - 17. Contractor agrees to defend, indemnify and hold harmless the City of Santa Fe, OTAB members, and TOURISM Santa Fe for all losses, damages, claims or judgment, execution, actions or demands whatsoever resulting from the Contractee's actions or inactions as a result of the event.
 - 18. All reimbursement information must be categorized per City of Santa Fe Professional Service Agreement approved budget.
 - a. Original invoices must be submitted for payment processing. (Copies of invoices will not be accepted.) Invoices must be dated and marked paid by the event after the signed agreement date.
 - b. Vendor statements will not be accepted instead of original invoices.
 - c. Copy of cancelled checks (front & back) or signed credit card receipts must accompany invoices as proof of payment.
 - d. Copies/clippings of flyers, banners, advertisements (radio, TV, newspaper, magazine, etc.) must accompany each vendor-related invoice.
 - e. Progress payments will be accepted.
- Note: **Keep in mind that your Professional Service Agreement with the City is a dated contract and invoices cannot be paid if received after your contract is expired.**
- 19. After the event, a post-event written report must be submitted to the OTAB within 90 days. Contractor will then be scheduled to make a ten-minute (10) verbal presentation at the next regularly scheduled meeting of OTAB. The report must include: **1) a post-event explanation of expenditures and revenues with a complete event budget. 2) a descriptive breakdown of how the event directly produced tourism revenue, (e.g. number of attendees, participants, number of room nights used in local hotels/motels), and 3) an estimate of economic impact other than hotel room nights 4) plan for next year's event.**

Acknowledgement:

Please sign below acknowledging that you have read and fully understand the preceding document—
Procedures & Application for Occupancy Tax Funding Assistance for Special Events.

Clare H. Lef
Applicant's Signature
Co-Founder
Title/Position
SFILF

Oct. 5, 2023
Date

SPENCER, SHIRLEY J.

From: DUTTON-LEYDA, TRAVIS K.
Sent: Tuesday, October 10, 2023 5:41 PM
To: SPENCER, SHIRLEY J.
Subject: RE: Determination - RFA's for Grant Support Contracts?

Hi, even though we are going to meet tomorrow, I will provide the determination so you can include this in the Munis records.

The scope of work as written would be Professional Services. Please note this determination relates only to that question and is no comment on whether the scope of work or procurement method meet all legal standards. I reserve the right to change this determination if the scope of work differs from the scope of work submitted for the original determination. This procurement must be conducted using the processes and procedures set forth by the City of Santa Fe, Central Purchasing, and the Procurement Manual.

Please note:

- Include this email as a PDF in your Munis req. or contract.
- Please check with WorkQuest dba Horizons of New Mexico (mloehman@horizonsofnewmexico.org). If this service appears on their [approved list](#), the scope of work must be offered for their right of first refusal. In your req. or contract in Munis, include a screenshot showing the services are excluded or the declination email from Matt.
- If your request includes any IT components, send it to creview@santafenm.gov to make sure ITT is aware of the procurement. Please provide their response to this office when you submit your procurement request for processing.
- Please ensure that the appropriate templates and forms are used https://intranet.santafenm.gov/finance_1 and documented procedures/laws/rules are followed
<https://nmonesource.com/nmos/nmsa/en/item/4378/index.do#!fragment//BOCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoByCgSgBplTCIBFRQ3AT0otokLC4EbDtyp8B0kAGU8pAELcASgFEAMioBqAOOByAYRWISYAEbRS2ONWpA>
- When processing this procurement, please ensure that this number (###/###/P) and the procurement name are used in the appropriate documents and the subject of emails.
- If you are processing a procurement where the forecasted amount is \geq \$60k, per NMSA 1978, Section 13-1-102, if you aren't using a cooperative or existing contract, you must process an RFP.
- < \$20k per year, one quote is acceptable.
- From \$20k to \$60k per year, if you aren't using a cooperative or existing contract, you'll need to provide 3 quotes in your req.
- Please keep this as part of the procurement file for future reference.
- Figure out your funding source and **inform Purchasing**. To ensure that the proper documents and language are used, it is important to identify the funding source for the subsequent agreement. For instance, if federal funds are involved, the procurement request and subsequent contract must include the necessary federal language. Therefore, it is crucial to determine the funding source beforehand.

- ✓ Federal
- ✓ State
 - ✓ Federal Passthrough
 - ✓ Capital Outlay
 - ✓ Other Appropriations
- ✓ Local General Fund
- ✓ Other Restricted
 - ✓ Foundation
 - ✓ Donation

- Please review the pages linked below to determine whether any of the existing agreements or cooperative agreements are applicable to this request. You might be able to use an existing agreement to save time and money.
- <https://www.generalservices.state.nm.us/state-purchasing/statewide-price-agreements/> (if you choose to use a Statewide, you do not need to ask Horizons if they can do the work. State Purchasing must offer the SOW to Horizons prior to placing the award on their website.)
- <https://paspovalucpoint.org/categories/>
- <https://www.omniapartners.com/publicsector/contracts>
- <https://www.buyboard.com/home.aspx>
- <https://www.b-gac.com/Home>
- <https://www.gsaclibrary.gsa.gov/>
- <https://www.sourcwell-mn.gov/contract-search>
- <https://eprocurement.ces.org/public/bluebook.html#>
- **##UPDATED##** Submit or send your request to the appropriate channel or email address:
- RFP requests to <https://teams.microsoft.com/l/channel/19%3ad63b9c8b586d424fa5eed34177146ac5%40thread.tacv2/RFP%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f>
- ITB requests to <https://teams.microsoft.com/l/channel/19%3a48c1e4588c0440a09cfbd9b907ed42d4%40thread.tacv2/ITB%2520Requests?groupId=a367d8c2-992f-4c74-8e7d-0ccb6950c9a1&tenantId=77b69f5a-55ed-4363-8616-4867b0bc707f>
- Determination requests to purchasing_det@santafenm.gov
- And all other requests to purchasing@santafenm.gov

Thank you for submitting this scope of work for my review.

Regards,

Travis Dutton-Leyda
 Chief Procurement Officer
 City of Santa Fe
 200 Lincoln Avenue
 Santa Fe, NM 87501
 505-629-8351
tkduttonleyda@santafenm.gov

<https://santafenm.gov/finance-2/purchasing-1>

Vision without action is merely a dream.
Action without vision passes the time.
Vision with action can change the world. ~ Joel A. Barker

From: SPENCER, SHIRLEY J. <sjspencer@santafenm.gov>
Sent: Wednesday, September 27, 2023 3:32 PM
To: DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>
Subject: Determination - RFA's for Grant Support Contracts?
Importance: High

Hi Travis,

TSF will have some contracts for funding support of local events. These events are selected through an application process (see attached) and then screened and voted via (OTAB) Occupancy Tax Advisory Board. We have struggled to determine procurement method in past years however, last year JoAnn Lovato said it must go through an RFA process – I am ready to do this if you determine this is what is needed. Just not sure how to do this as I have never done an RFA. I hope this does not include posting on the city website as the application process closes 9/30. YIKES!

I will be out of the office starting 9/30 – 10/10 so would like to make sure I do what is needed before my departure.

Thanks for your guidance.

Shirley Spencer
Administrative Manager
TOURISM Santa Fe
505-955-6208



City of Santa Fe

Treasury Department

200 Lincoln Ave.

Santa Fe, New Mexico 87504-0909

505-955-6551

BUSINESS REGISTRATION

Business Name: SANTA FE LITERARY

DBA: SANTA FE LITERARY

Business Location: 3775 OLD SANTA FE TRL

SANTA FE, NM 87505

Owner: SANTA FE LITERARY Hertel

License Number: 234407

Issued Date: February 27, 2024

Expiration Date: February 27, 2025

CRS Number: 03612215007

License Type: Business License - Renewable

Classification: Business Registration - Standard

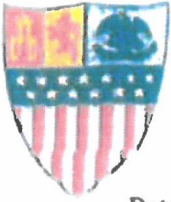
Fees Paid: \$35.00

**SANTA FE LITERARY
3775 OLD SANTA FE TRL
SANTA FE, NM 87505**

**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 TRANSFERABLE TO
OTHER BUSINESSES OR PREMISES.**

TO BE POSTED IN A CONSPICUOUS PLACE



REQUEST FOR WAIVER OF INSURANCE

Date: 3/13/2024 Division/department: TOURISM Santa Fe

Project manager: Shirley Spencer Phone: 6208

Requested for: Clare Hotel - Santa Fe International Literary Festival 2024

☐ General liability ☒ Auto liability ☒ Professional liability
☒ Workers compensation (Mandatory unless sole proprietor) ☐ Other insurance

Scope of services: funding support from City of SF Occupancy Tax Advisory (OTAB) program for marketing efforts for the 2024 SF Int'l Literary Festival event.

Why the request for waiver: W/C: They have no employee's as they are all volunteers.

Professional and Auto: as they are event producers and will not provide professional advise or services that impact financial decisions nor wil auto be required.

Division evaluation of risk:

What is the term and annual dollar amount of the contract:

\$15,000 term end 12/31/2024

Is our standard contract being used:

☒ Yes ☐ No

Was the contractor asked if they carry insurance:

☒ Yes ☐ No

Is there construction/demolition:

☐ Yes ☒ No

Is there potential for bodily injury or property damage:

☒ Yes ☐ No

Are crowds or children likely to be involved:

☒ Yes ☐ No

Will the contractor be working on site in the City:

☒ Yes ☐ No

Is the contractor a professional (licensed, certified):

☐ Yes ☒ No

Will the City rely on information to make future decisions:

☐ Yes ☒ No

Could poor, non-performance or the product cause loss:

☐ Yes ☒ No

Office of Risk Management recommendation:

☒ Yes ☐ No

MELANIE LOWATO (Apr 2 2024 14:42 MDT)

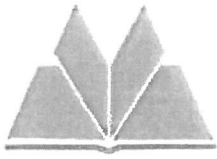
☒ Insurance Waiver Approved

☐ Insurance Waiver Not Approved

John Blair
John Blair (Apr 5, 2024 3:55 MDT)

John Blair, City Manager

Date



SANTA FE
international
LITERARY
FESTIVAL


Date: April 1, 2024

TO:
City of Santa Fe, TOURISM Santa Fe
201 West Marcy Street
Santa Fe, NM 87501

FROM:
Santa Fe International Literary Festival
3775 Old Santa Fe Trail
Santa Fe, New Mexico

Dear City of Santa Fe Risk Management

Please accept this as confirmation that Santa Fe Literary Festival has consulted with our Workers Compensation Professional and understand we are not obligated to carry Worker's Compensation. Therefore, we kindly request a Worker's Compensation waiver for the City of Santa Fe contract event named: Santa Fe Literary Festival.

 April 5, 2024

Clare Hertel
Executive Director
Santa Fe International Literary Festival

Writers Readers Thinkers



May 17-19, 2024 Santa Fe

www.SFinternationalilfest.org 3775 Old Santa Fe Trail Santa Fe NM, 87505 info@sfinternationalilfest.org



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
03/11/2024

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 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 Athos Insurance Services, LLC P.O. Box 61102 Pasadena, CA 91116	CONTACT NAME: Any Representative PHONE (A/C, No, Ext): (626) 716-9800 FAX (A/C, No): (626) 701-5047 E-MAIL ADDRESS: service@athosinsurance.com INSURER(S) AFFORDING COVERAGE INSURERA: Atlantic Specialty Insurance Company INSURERB: U.S. Specialty Insurance Company INSURERC: United States Fire Insurance Company INSURERD: INSURERE: INSURERF:
INSURED Santa Fe International Literary Festival 3775 Old Santa Fe Trail Santa Fe, NM 87505	NAIC # 27154 29599 21113

COVERAGES

CERTIFICATE NUMBER:

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. NOT WITHSTANDING 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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY	X		U24SE10556	05/16/2024 12:01 AM	05/21/2024 12:01 AM	GENERAL AGGREGATE \$2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						
	<input checked="" type="checkbox"/> HOST LIQUOR						
C	<input checked="" type="checkbox"/> MEDICAL EXPENSE			US1936973	05/16/2024 12:01 AM	05/21/2024 12:01 AM	FIRE DAMAGE (Any one fire) \$300,000
	GEN'L AGGREGATE LIMIT APPLIES PER.						MED EXP (Any one person) \$5,000
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident) \$
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTO	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB	<input type="checkbox"/> OCCUR					AGGREGATE \$
	<input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	<input type="checkbox"/> CLAIMS-MADE					
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATUTORY LIMITS \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N					E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					E.L. DISEASE - EA EMPLOYEE \$
							E.L. DISEASE - POLICY LIMIT \$
A	Inland Marine Coverage			790011744-0011-98775	05/16/2024 12:01 AM	05/21/2024 12:01 AM	Limit Description See Page 2 Deductible \$250.00 Options See Page 2

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate Holder is included as Additional Insured under the General Liability Policy and as Loss Payee under the Inland Marine Equipment policy.

There is no coverage for Rented Autos.

There is no exclusion for Theft From an unlocked or unattended vehicle.

This coverage is with respect to Santa Fe International Literary Festival event to be held 05/17/2024 - 05/19/2024 at Santa Fe Community Convention Center Santa Fe NM.

CERTIFICATE HOLDER

CANCELLATION

City of Santa Fe/Santa Fe Community Convention Center 201 W. Marcy St. Santa Fe, NM 87501	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THERE OF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	--

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24-0316 Clare Hertel - Santa Fe Literary Festival

Final Audit Report

2024-05-06

Created:	2024-05-06
By:	Xavier Vigil (xivigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAASC6WJD39MtYfKE8OuQcUafhyMOnWncm5

"24-0316 Clare Hertel - Santa Fe Literary Festival" History

-  Document created by Xavier Vigil (xivigil@ci.santa-fe.nm.us)
2024-05-06 - 4:12:32 PM GMT- IP address: 63.232.20.2
-  Document emailed to GERALYN CARDENAS (gfcardenas@santafenm.gov) for signature
2024-05-06 - 4:14:20 PM GMT
-  Email viewed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
2024-05-06 - 5:20:17 PM GMT- IP address: 104.47.64.254
-  Document e-signed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
Signature Date: 2024-05-06 - 5:20:26 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-05-06 - 5:20:26 PM GMT