



City of Santa Fe New Mexico

Memorandum



Date: September 9, 2024

To: John Blair, City Manager *John Blair*
John Blair (Sep 21, 2024 18:03 MDT)

Via: *Regina Wheeler*
Regina Wheeler (Sep 10, 2024 11:06 MDT)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, PhD, CPM, Capital Projects Manager *RGM*

Subject: Approval of a ROW Purchase Contract

Vendor Name: Southwestern Title & Escrow, Inc. (8777)

ITEM AND ISSUE:

Public Works Department Respectfully Requests Your Review and Approval of a Right-of-Way Purchase Contract in the Total Amount of \$2,650 Excluding Southwestern Title and Escrow Closing Fees for the Construction of Sandoval-Montezuma Intersection Improvements Project; (Guadalupe Center Condominium Association/Complete Streets); (Romella Glorioso-Moss, rsglorioso-moss@santafenm.gov, 505-955-6623)

Action Requested: Approve the Guadalupe Center Condominium Association Purchase Contract payable to Southwestern Title & Escrow, Inc.

BACKGROUND AND SUMMARY:

The Guadalupe Center Condominium Association accepted the City offer to purchase temporary use of their ROW during construction of Sandoval-Montezuma Intersection Improvements Project. The ROW mapping, design and acquisition for this project is funded by NMDOT through the State Road Fund Program for \$200,000. This project includes improved signalized intersection, Americans with Disabilities Act ("ADA") upgrades, intersection street lighting and permanent signing and striping at the intersection of Sandoval Street and Montezuma Avenue. To construct this project, a Temporary Construction Permit for 351 sq. ft. for \$2,650, excluding Southwestern Title and Escrow closing fees, must be acquired. The \$75/sq ft cost is based on the Appraisal Report prepared by the American Property - Consultants & Appraisers, Inc. The Purchase Contract is attached for your review and approval.

PROCUREMENT METHOD:

The procurement method is per Sections 42A-1-3 through 42A-1-4 of the New Mexico Procurement Code, NMSA 1978 and followed NMDOT's Right of Way Bureau Acquisition Process.

Chief Procurement Officer Approval: *John Blair* **Date:** Sep 12, 2024
Comment/Exceptions: _____

Supporting Information:

CONTRACT NUMBER:

The FY25 Munis contract number is 3250167
The FY25 Project ledger number is ST18330BJ

SOURCE/REVENUE: Expense

The funding source is: Impact Fees

Fund Name/Number: Roadway/Trails/330

Munis Org Name/Number: Streets/3309980

Munis Object Name/Number: WIP Land/572940

Capital Project:

(New and improvement projects that are going to cost \$10,000 or more)

X Yes | ☐ No

Department Approvals:

IT Components: ☐ Yes | X No

Vehicles: ☐ Yes | X No

Facilities, Furniture, Fixtures, Equipment: ☐ Yes | X No

Department Contract Administrator Contact Info:

Amanda Archuleta, Email: ajarchuleta@santafenm.gov; Phone: 505-955-6631

ATTACHMENTS:

Purchase Contract

Halona Crowe 09/10/2024

Reviewed by Halona Crowe

PURCHASE CONTRACT

Project: City of Santa Fe Sandoval/Montezuma Intersection
Improvements
Parcel(s): 2-TCP-1

PCN # C5182665,
HW2M700068

THIS AGREEMENT made and entered into this _____ day of _____, 2024
between **Guadalupe Center Condominium Association, a New Mexico non-profit corporation**
whose address is **P.O. Box 23050, Santa Fe, New Mexico 87502**
(Party of the First Part), and the City of Santa Fe, a political subdivision of the State of New Mexico,
hereinafter referred to as the City. For the purposes of this contract, Party shall be deemed to be either
singular or plural as the context requires.

WITNESSETH: For good and valuable consideration, receipt of which is hereby acknowledged, the
Party of the First Part hereby delivers to the City, one (1) Temporary Construction Permit for **2-TCP-1**
for the duration of the public improvement known as Sandoval/Montezuma Intersection Improvements
situated in Santa Fe County, State of New Mexico, and subject to the following terms and conditions:

CONDITIONS:

1. Taxes and Special Assessments, if any, delinquent from former years, and Taxes and Special Assessments for the current year, if due and/or payable, shall be paid by the Party of the First Part.
2. THIS CONTRACT embodies the whole agreement between the parties hereto, and there are no promises, terms, conditions or obligations referring to the subject matter hereof, other than as contained herein.
3. The Party of the First Part hereby agrees that the compensation herein provided to be paid includes full compensation for their interests, and the interests of their life tenants, remaindermen, reversioners, lienors and lessees, and any and all other legal and equitable interests which are or may be outstanding, and said Party of the First Part agrees to discharge the same.
4. THIS CONTRACT shall be binding upon the parties hereto and upon the respective heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties, only when the same shall have been approved by the City Manager or his/her authorized representative.
5. The terms of this Agreement are understood and assented to by us and payment is to be made in accordance with the above. It is further understood and agreed that, except as noted or specified above, IMMEDIATE POSSESSION of said premises, and the right to enter thereon, is HEREBY GRANTED to the City, its duly authorized Agents and Contractors, upon signature by both parties, on the date of the later signature.
6. The terms and conditions of this contract have been fully explained and are understood by the undersigned, and payment is to be made in accordance with the above conditions.
7. The consideration as set forth in the contract shall constitute full payment for the premises and all damages, of whatever nature, arising out of or by reason of the use of said premises for roadway purposes.
8. Party of the first part will hold the City harmless for any and all claims, demands or causes of action arising out of or as a result of the transactions as described herein.

THE CITY agrees to purchase the above-described real estate, or interest therein, and to pay upon delivery of one (1) Temporary Construction Permit therefore, as follows:

Parcel	Sq. Ft.	\$ / SF	% Fee	Land	Improvements	Net Damages	Total
2-TCP-1	351	\$75.00	10%	\$2,650	\$0	\$0	\$2,650
Total Compensation:							\$2,650

CITY OF SANTA FE

BY:

John Blair
John Blair (Sep 21, 2024 18:03 MDT)
 John Blair, City Manager

Date: Sep 21, 2024

ATTEST:

[Signature]
 Geralyn F. Cardenas, Interim City Clerk
x/v

Date: Oct 15, 2024

CITY ATTORNEY'S OFFICE

Kevin L. Nault
Kevin L. Nault (May 9, 2024 13:11 MDT)
 Kevin L. Nault, Assistant City Attorney

Date: May 9, 2024

APPROVED FOR FINANCES

Emily K. Oster
 Emily Oster, Finance Director

Date: Sep 24, 2024

Party of the First Part: **Guadalupe Center Condominium Association, a New Mexico non-profit corporation**

By: *Nathan Soto* Date: 7/22/2024
 NATHAN SOTO

Title: Board President

Contract No.	<u>D19288</u>
Vendor No.	<u>0000054360</u>
Control No.	<u>HW2M700068</u>

STATE ROAD FUND COOPERATIVE AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and City of Santa Fe (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

1. Purpose.

The purpose of this Agreement is to provide State Road Funds to the Public Entity to plan, design, complete the NMDOT ROW Certification requirements including ROW mapping, design, and acquisition and construct the intersection improvements at Sandoval Street and Montezuma Avenue, to include bringing the intersection into ADA compliance, shortening crossing distances, and providing pedestrian signal heads., as described in Control No.

M700068. The Project is a joint and coordinated effort for which the Department and the Public Entity each have authority or jurisdiction. This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

- a. The estimated total cost for the Project is Two Hundred Thousand Dollars and No Cents (\$200,000) to be funded in proportional share by the parties as follows:

1. Department's share shall be 100%	\$200,000
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plan, design, complete the NMDOT ROW Certification requirements including ROW mapping, design, and acquisition and construct the intersection improvements at Sandoval Street and Montezuma Avenue, to include bringing the intersection into ADA compliance, shortening crossing distances, and providing pedestrian signal heads

2. Total Project Cost	\$200,000
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- b. The Public Entity shall pay all Project costs, which exceed the total amount of Two Hundred Thousand Dollars and No Cents (\$200,000).
- c. Any costs incurred by the Public Entity prior to this Agreement are not eligible for reimbursement and are not included in the amount listed in this Section 2.

3. The Department Shall:

Pay project funds as identified in Section 2, Paragraph a1, to the Public Entity in a single lump sum payment after:

- a. Receipt of a Notice of Award and Notice to Proceed; and,
- b. Verification of available State Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2.
- c. All required documents must include Department Project and Control Number.

4. The Public Entity Shall:

- a. Act in the capacity of lead agency for the purpose as described in Section 1.
- b. Submit an estimate of the Project, including work to be performed and cost to the District Engineer within thirty (30) days of execution of this Agreement, or as otherwise agreed to in writing by the Parties.
- c. Pay all costs, perform/supply or contract for labor and material, for the purpose as described in Section 1 and the Project estimate approved by the District Engineer.
- d. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances
- e. Be responsible, for performing or directing the performance, of all pre-construction activities, including, but not limited to, the following:
 1. Utility Certification,
 2. Drainage and storm drain design,
 3. Geotechnical design,
 4. Pavement design,
 5. Environmental and archaeological clearances Certification,
 6. Right-of-way acquisition Certification,
 7. Hazardous substance/waste site(s) contamination,
 8. Railroad Certification,
 9. Intelligent Transportation System (ITS) Certification
- f. Cause all designs and plans to be performed under the direct supervision of a Registered New Mexico Professional Engineer, when applicable, as determined by the Department.
- g. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- h. Allow the Department to inspect the Project to determine that the Project is being constructed in accordance with the provisions of this Agreement. Disclosures of any failure to meet such requirements and standards as determined by the Department, will result in termination, for default, including without limitation the Public Entity's costs for funding, labor, equipment and materials.
- i. Within thirty (30) days of completion, provide written certification that all work under this Agreement was performed in accordance with either the New Mexico Department of Transportation's Standard Specification, Current Edition; American Public Works Association (APWA) Specifications; Department approved Public Entity established Specifications; or Department Specifications established for State Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.

- j. Within thirty (30) days of completion, furnish the Department an **AS BUILT Summary of Costs and Quantities** form, which is attached as Exhibit B. The report should reflect the total cost of project as stated in **Project Certification of Design, Construction, and Cost** form.
- k. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- l. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.
- m. Failure to provide the **Project Certification of Design, Construction, and Cost** form and an **AS BUILT Summary of Costs and Quantities** report within thirty (30) days of Project completion will be considered a material breach of this Agreement and Public Entity shall reimburse to the Department all funds disbursed in accordance with this agreement.
- n. Upon completion, maintain all Public Entity facilities that were constructed or reconstructed under this Agreement.

5. Both Parties Agree:

- a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
- b. Any unexpended or unencumbered balance from the State Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) days of project completion or expiration of this Agreement, whichever occurs first.
- c. This Project is not being incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.

6. Term.

This Agreement becomes effective upon signature of all Parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on June 30, 2024. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

7. Termination.

- a. If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement, by providing thirty (30) days written notice.
- b. The Department may terminate this Agreement if the funds identified in Section 2 have not been contractually committed within one year from the effective date of this agreement.

- c. If sufficient appropriations and authorizations are not made by the Legislature, this Agreement may terminate immediately upon written notice of the Department to the Public Entity.
- d. Neither party has any obligation after termination, except as stated in Sections 4n and 5.

8. Third Party Beneficiary.

It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.

As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1, *et seq.*

10. Contractors Insurance Requirements.

The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least \$1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

11. Scope of Agreement.

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

12. Terms of this Agreement.

The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.

The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws

governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.

The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.

The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico, or the Congress of the United States if federal funds are involved, for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity, Legislature or the Congress of the United States if federal funds are involved, this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.

There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.

In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is be proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.

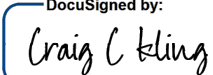
This Agreement may be altered, modified, or amended by an instrument in writing executed by the parties.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:  Date: 5/9/2022
DocuSigned by:
7985F2DB5F72463...
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By:  Date: 5/9/2022
DocuSigned by:
129233C124D74A1...
Assistant General Counsel

City of Santa Fe

By:  Date: May 5, 2022
John Blair (May 5, 2022 08:12 MDT)
Title: John Blair, City Manager

Attest:

By:  Date: May 6, 2022
Kristine Bustos-Mihelcic, City Clerk 
XIV

By:  Date: Apr 12, 2022
Marcos Martinez (Apr 12, 2022 10:09 MDT)
Senior Assistant City Attorney

Approved for Finances

By:  Date: May 4, 2022
Alexis Lotero (May 4, 2022 14:58 MDT)
Mary McCoy, Finance Director

EXHIBIT A
PROJECT CERTIFICATION OF
DESIGN, CONSTRUCTION, AND COST

TO: New Mexico Department of Transportation
District _____ Coordinator

Cooperative Agreement No. _____ Control No. _____
Joint Powers Agreement No. _____ Control No. _____

Entity: _____

Scope of Work (Including Routes and Termini):

I, the undersigned, in my capacity as _____ of _____
state that:

1. The design is in compliance with all state laws, rules, regulations, and local ordinances and was performed in accordance with the provisions set forth in this Agreement.
2. Construction of the project was performed in accordance with standards and specifications set forth in:

And completed on _____, 20____; and

3. That the total project cost of _____, with New Mexico Department of Transportation 100% share of _____ and the Public Entity share of _____ (as submitted in attached "As Built Summary of Costs and Quantities") is accurate, legitimate, and appropriate for the project.

Name

Date

Print Name

Title

Signature: XAVIER VIGIL
XAVIER VIGIL (Oct 15, 2024 14:43 MDT)

Email: xivigil@santafenm.gov

24-0608 Guadalupe Center Condominium Association

Final Audit Report

2024-10-15

Created:	2024-10-15
By:	XAVIER VIGIL (xivigil@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAmxXmwHOwVHxJE6GqGnLioiGrAFgV09dc

"24-0608 Guadalupe Center Condominium Association" History

-  Document created by XAVIER VIGIL (xivigil@santafenm.gov)
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-  Document e-signed by XAVIER VIGIL (xivigil@santafenm.gov)
Signature Date: 2024-10-15 - 8:43:11 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to GERALYN CARDENAS (gfcardenas@santafenm.gov) for signature
2024-10-15 - 8:43:13 PM GMT
-  Email viewed by GERALYN CARDENAS (gfcardenas@santafenm.gov)
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Signature Date: 2024-10-15 - 9:43:24 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.
2024-10-15 - 9:43:24 PM GMT