

Date: October 22, 2024

To: John Blair, City Manager

Via: Regina Wheeler, Public Works Department Director *Regina Wheeler*  
Regina Wheeler (Oct 22, 2024 14:02 MDT)

From: Romella Glorioso-Moss, PhD, CPM, Complete Streets Capital Projects Manager

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**ACTION:**

Approval of the First Amendment to Local Government Road Fund Cooperative Agreement Control No. L500532 with New Mexico Department of Transportation for the Engineering Design of Agua Fria – Henry Lynch Roundabout Project to Extend the Term through December 31, 2025. (Romella Glorioso-Moss, Complete Streets Capital Projects Manager, [rsglorioso-moss@santafenm.gov](mailto:rsglorioso-moss@santafenm.gov))

**BACKGROUND AND SUMMARY:**

The original Local Government Road Fund Cooperative Agreement to design the Agua Fria-Henry Lynch Road Roundabout Project for \$139,603 is expiring on December 31, 2024. Staff requested a term extension for another year, through December 31, 2025. It is needed since the project has not started yet. It cannot start until the new Henry Lynch Road alignment (from Rufina Street to Agua Fria Street) where the roundabout will tie in is final. The design of the new alignment of the Henry Lynch Road is expected to be completed as early as December 2024. Hence, this project could start in January, 2025 and completed within a year.

The funding source is NMDOT – L500532

Fund Name/Number: CIP Streets / 330

Munis Org Name/Number: CIP Streets & Roadways /3309980

Munis Expenditure Object Name/Number: WIP Design/572960

Munis Revenue Object Name/Number: NMDOT/490150

Project Ledger Number: STL93300D-Design

If the project is grant funded? List grant award number: HW2L500532

Grant Manager / Accounting Officer Approval: *Matthew Bonifer* Date: 10/22/2024  
Matthew Bonifer (Oct 22, 2024 15:32 MDT)  
Comment/Exceptions: \_\_\_\_\_

Budget Officer Approval: *Andy Hopkins* Date: 10/22/2024  
Comment/Exceptions: \_\_\_\_\_

CAPITAL ASSET (will this procurement result in a tangible item that costs more than \$5,000?):

☒ Yes | ☐ No

Repair or Replacement of Existing Equipment:

☐ Yes | ☒ No

If yes -> ☐ Repair | ☐ Replacement

Please explain: \_\_\_\_\_

Capital Project:

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

☒ Yes | ☐ No

Anticipated length of project: 1 year \_\_\_\_\_

Asset Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment/Exceptions: \_\_\_\_\_

Department Approvals:

IT Components: ☐ Yes | ☒ No

Vehicles: ☐ Yes | ☒ No

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

Approval: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Approval: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

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

Department Contract Administrator Contact Info:

Amanda Archuleta, [ajarchuleta@santafenm.gov](mailto:ajarchuleta@santafenm.gov), (505) 955-6631

ATTACHMENTS:

First Amendment to Local Government Road Fund Cooperative Project

*Halona Crowe*

Reviewed by Halona Crowe

<b>Contract No.</b>	<b>D19889/1</b>
<b>Vendor No.</b>	<b>0000054360</b>
<b>Control No.</b>	<b>HW2L500532</b>

## FIRST AMENDMENT TO LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT

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

### RECITALS

**Whereas**, the Department and the Public Entity entered into an Agreement, Contract No. D19889, on 8/18/2023; and,

**Whereas**, Section 19 allows for modification of the Agreement by an instrument in writing executed by the parties; and,

**Whereas**, the Department and the Public Entity want to extend the term of the Agreement to allow for Project completion; and,

**Whereas**, the parties agree to modify this Agreement.

**Now, therefore**, the Department and the Public Entity agree as follows:

1. Section 6, Term, is deleted and replaced by the following:

#### **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 **December 31, 2025**. 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.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

**In Witness Whereof**, each party is signing this Agreement on the date stated opposite that party's signature.

**New Mexico Department of Transportation**

By: \_\_\_\_\_  
Cabinet Secretary or Designee

Date: \_\_\_\_\_

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

By: \_\_\_\_\_  
Assistant General Counsel

Date: \_\_\_\_\_

City of Santa Fe  
By:   
Randy Randall (Nov 20, 2024 14:33 MST)

Date: Nov 20, 2024

Name: Randy Randall

Title: Interim City Manager

ATTEST:

By: *Andrea Salazar*  
Andrea Salazar (Nov 20, 2024 15:30 MST)  
Gerald Cardenas, Interim City Clerk

Date: Nov 20, 2024

x/v

Approved as to form and legal sufficiency by the City's Attorney:

*Marcos Martinez*  
Marcos Martinez (Sep 24, 2024 11:41 MDT)  
Marcos Martinez, Senior Assistant City Attorney

Date: Sep 24, 2024

Approved for finance:

*Emily K. Oster*  
Emily Oster, Finance Department Director

Date: 10/23/2024

Contract No.	<u>D19889</u>
Vendor No.	<u>54360</u>
Control No.	<u>L500532</u>

## LOCAL GOVERNMENT ROAD FUND COOPERATIVE AGREEMENT

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

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-28.2, and State Transportation Commission Policy No. 44, the parties agree as follows:

### 1. Purpose.

The purpose of this Agreement is to provide Local Government Road Funds to the Public Entity for the Planning and design, Pavement Rehabilitation/ Improvements, Reconstruction, as described in Control No. **L500532**, and the Public Entity’s resolution attached as **Exhibit C** (Project). 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. For purpose stated above, the estimated total cost for the Project is One Hundred Thirty-nine Thousand, Six Hundred three dollars and zero cents (\$139,603.00) to be funded in proportional share by the parties as follows:

1. Department’s share shall be 75%: \$104,702.25

Planning and design, Pavement Rehabilitation/ Improvements, Reconstruction

2. Public Entity’s required proportional matching share shall be 25%: \$34,900.75

3. Total Project Cost: \$139,603.00

b. The Public Entity shall pay all Project costs, which exceed the total amount One Hundred Thirty-nine Thousand, Six Hundred three dollars and zero cents (\$139,603.00).

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 cover letter requesting funds;
- b. Receipt of a Notice of Award and Notice to Proceed;
- c. Verification of available Local Government Road Funds and Public Entity's local matching funds identified in Section 2, Paragraph a2; and
- d. 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) calendar days of execution of this Agreement, or as otherwise agreed to in writing by the parties.
- c. Be solely responsible for all local matching funds identified in Section 2. Certify that these matching funds have been appropriated, budget and approved for expenditure prior to execution of this Agreement.
- d. 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.
- e. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
- f. In accordance with project parameters, assume the lead planning and implementation role and sole responsibility for providing local matching funds; environmental, archaeological, utility clearances; railroad and Intelligent Transportation System (ITS) clearances; right-of-way acquisition; project development and design; and project construction and management.
- g. 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.
- h. Obtain all required written agreements or permits, when applicable, from all public and private entities.
- i. 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.
- j. Complete the project within eighteen (18) months of approval of funding by the State Transportation Commission.
- k. Within thirty (30) calendar 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 Local Government Road Fund projects, by submitting the **Project Certification of Design, Construction, and Cost form**, which is attached as Exhibit A.

- l. Within thirty (30) calendar 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.
- 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) calendar 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 Local Government Road Fund appropriated for this Project reverts to the Department. These balances, if any, must be reimbursed to the Department within thirty (30) calendar 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.
- d. Pursuant to NMSA 1978, Section 67-3-28.2, Local Government Road Funds granted under this provision can not be used by the Public Entity to meet a required match under any other program.
- e. The provisions of the Tribal/Local Public Agency State Funding Handbook (Current Edition), are incorporated by reference and control the contractual rights and obligations of the parties unless in conflict with the specific terms expressed in this Agreement or any amendments.

#### **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 **December 31, 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) calendar 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) calendar 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. Liability.**

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.*, and any other applicable law.

### **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 and endorsements listing the Department as an additional insured 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 included 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 rights, equal opportunity compliance, environmental issues, 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 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, disability, or other protected class, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the Public Entity is 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, subject to Section 7 above.

**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 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) calendar days. 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) calendar days of written notification.

**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 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.

**The remainder of this page is intentionally left blank.**

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

**NEW MEXICO DEPARTMENT OF TRANSPORTATION**

DocuSigned by:  
By: Mallery Manzanares Date: 8/18/2023  
83F307B82C81449...  
Cabinet Secretary or Designee

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

DocuSigned by:  
By: Christine Schwamberger Date: 8/17/2023  
593C7CA1DD434D1  
Assistant General Counsel

City of Santa Fe

By: Alan Webber (Jul 26, 2023 20:21 MDT) Date: Jul 26, 2023  
Mayor

ATTEST

By: Kristen Miller Date: Jul 27, 2023  
City Clerk  
GB MTG 07/24/2023 XIV

Approved as to form and legal sufficiency by the City's Attorney

By: Marcos Martinez Date: Jun 2, 2023  
Marcos Martinez (Jun 2, 2023 15:16 MDT)  
City Attorney

Approved for finance

By: Emily K. Oster Date: Jul 26, 2023  
Emily K. Oster (Jul 26, 2023 18:10 MDT)  
City Finance Director

**EXHIBIT A**  
**PROJECT CERTIFICATION OF**  
**DESIGN, CONSTRUCTION, AND COST**

TO: New Mexico Department of Transportation  
District \_\_\_\_\_ LGRF 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 and in the Tribal/Local Public Agency State Funding Handbook (Current Edition);

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 75% 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

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Print Name

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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2023-29**

**INTRODUCED BY:**

Councilor Jamie Cassutt

Councilor Amanda Chavez

Councilor Renee Villarreal

**A RESOLUTION**

**ACCEPTING A LOCAL GOVERNMENT ROAD FUND ADMINISTERED BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE PLANNING AND DESIGN OF THE AGUA FRIA-HENRY LYNCH ROUNDABOUT PROJECT, IDENTIFIED AS CONTROL NO. L500532**

**WHEREAS**, the City of Santa Fe (“City”) responded to the New Mexico Department of Transportation’s (“NMDOT”) call for fiscal year 2024 funding applications for Local Government Road Funds (“LGRF”), dedicated to designing the Agua Fria-Henry Lynch roundabout (“Project”); and

**WHEREAS**, the Santa Fe Metropolitan Planning Organization (“SFMPO”) identified the Agua Fria-Henry Lynch roundabout as a priority and placed it in the SFMPO’s Metropolitan Transportation Plan for fiscal year 2020-2045; and

**WHEREAS**, the SFMPO’s Technical Coordinating Committee and Transportation Policy Board, the leadership of which includes the City, County, and NMDOT, voted in April of 2023 to support the City’s application to fund the design of a future roundabout, with an

1 understanding that the project will require cross-jurisdictional coordination and support; and

2       **WHEREAS**, the design of the roundabout is contingent on another City project—the  
3 Agua Fria-Henry Lynch Reconstruction, which is funded by the Transportation Project Fund  
4 (“TPF”); and

5       **WHEREAS**, the estimated total cost for the project is \$139,603, planned to be funded in  
6 proportional share by NMDOT and the City; and

7       **WHEREAS**, NMDOT’s share is 75 percent or \$104,702.25; and

8       **WHEREAS**, the City’s proportional, matching share is 25 percent or \$34,900.75; and

9       **WHEREAS**, the City is willing to pay all costs of the Project that exceed the total amount  
10 of \$139,603; and

11       **WHEREAS**, the agreement regarding the foregoing terms is a Cooperative Agreement  
12 between NMDOT and the City, control number L500532, which would terminate on December 31,  
13 2024.

14       **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
15 **CITY OF SANTA FE** that the Governing Body supports the administration of the LGRF project  
16 funding, which is dedicated to the design of the Agua Fria-Henry Lynch roundabout, as granted  
17 through the NMDOT.

18       **BE IT FURTHER RESOLVED** that the City of Santa Fe, shall accept responsibility for  
19 the Project; assumes the lead role in design development of the project; agrees to the terms,  
20 conditions, certifications and reporting requirements of Cooperative Agreement, control number  
21 L500532.

22       PASSED, APPROVED, and ADOPTED this 26<sup>th</sup> day of July, 2023.

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25 ALAN WEBBER, MAYOR

1 ATTEST:

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4 KRISTINE MIHELIC, CITY CLERK

5  
6 APPROVED AS TO FORM:

7   
8 [Erin McSherry \(Jul 27, 2023 16:44 MDT\)](#)

9 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2023/Resolutions/2023-29 R Agua Fria-Henry Lynch Roundabout*



**Signature:** XAVIER VIGIL  
XAVIER VIGIL (Nov 20, 2024 11:52 MST)

**Email:** xivigil@santafenm.gov











# 24-0616 New Mexico Department of Transportation

Final Audit Report

2024-11-20

Created:	2024-11-20
By:	XAVIER VIGIL (xivigil@santafenm.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA8jKe5-H-0rVoalA0bvInpeR_L1CqK7Ws

## "24-0616 New Mexico Department of Transportation" History

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-  Document e-signed by XAVIER VIGIL (xivigil@santafenm.gov)  
Signature Date: 2024-11-20 - 6:52:36 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Randy Randall (rrandall@santafenm.gov) for signature  
2024-11-20 - 6:52:39 PM GMT
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-  Signer axsalazar@santafenm.gov entered name at signing as Andrea Salazar  
2024-11-20 - 10:30:43 PM GMT- IP address: 63.232.20.2
-  Document e-signed by Andrea Salazar (axsalazar@santafenm.gov)  
Signature Date: 2024-11-20 - 10:30:45 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.  
2024-11-20 - 10:30:45 PM GMT