

February 1, 2012
Agenda
9:30 A.M. Business Meeting
Valencia County Commission Chambers
444 Luna Avenue
Los Lunas, NM 87031

Board of County Commissioners
Donald E Holliday, Chair District V
Georgia Otero-Kirkham, Vice-Chair District II
Mary Andersen District I
Lawrence R. Romero District III
Ron Gentry District II'

- 1) Call Meeting to Order
- 2) Pledge of Allegiance
- 3) Approval of Agenda
- 4) Approval of Minutes: None at this time

Donald Holliday

PRESENTATION(S)

- 5) Village of Los Lunas Community Branding – Jim Glover
- 6) Solid Waste Planning Committee update

DISCUSSION (Non-Action) ITEM(S)

- 7) Department Reports – Finance
- 8) Reports from Manager, Commissions, Boards & Committees

ACTION ITEM(S)

- 9) Consideration of Resolution 2012-___ Public Participation at Valencia County Commission Meetings: **Chairman Don Holliday**
- 10) Consideration of MOU between Valencia County and Belen – Participation in Recycling Program: **Eric Zamora / Sarah Schnell**
- 11) Consideration of Professional Services Agreement VCJJB Reception Assessment Services: **Joe Chavez / Cynthia Ferrari**
- 12) Consideration of MOA between NM Department of Health and Valencia County: **Eric Zamora / Glenda Chavez**
- 13) Consideration of an amendment to the Personnel Policy in regard to leave requirements during a contested election: **County Commission**
- 14) Consideration of Architectural Services Contract-Jail Expansion: **Eric Zamora**
- 15) Consideration of a Grant Agreement for purchasing of Vehicles for the Older American Program: **Ruben Chavez / Jose Campos**

FINANCIAL MATTERS:

16) Consideration of Approval: Payroll / Warrants: **Eric Zamora / Christina Card**

PUBLIC COMMENT:

Please sign up on the sheet located just outside the Commission chambers. The Board will allow each member of the public wishing to address the Board a full and complete opportunity to address the Commission

EXECUTIVE SESSION:

Pursuant to Section 10-15 I (H) (2) (7) & (8), the following matters may be discussed in closed session: a. personnel: b. pending or threatened litigation: c. real property: d. other specific limited topics that are allowed or authorized under the stated statute.

- ♦ Motion and roll call vote to go into Executive Session for the stated reasons
- ♦ Board meets in closed session
- ♦ Motion and vote to go back into regular session
- ♦ Summary of items discussed in closed session
- ♦ Motion and roll call vote that matters discussed in closed session were limited to those specified in motion for closure, and that no final action was taken, pursuant to the authority in §10-15-I NMSA 1978.

NEXT COMMISSION MEETING:

- ♦ **February 8, 2012 – Public Hearing Meeting @ 5:00 P.M.**
Valencia County Commission Board Room 444 Luna Ave. LL, NM

ADJOURN:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Valencia County Manager's Office at the Valencia County Courthouse, Los Lunas, New Mexico, (505) 866-2014 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Valencia County Manager's Office at the old Valencia County Courthouse if a summary or other type of accessible format is needed.

BOOK 72 PAGE 775

VALENCIA COUNTY BOARD OF COMMISSIONERS
BUSINESS MEETING
FEBRUARY 1, 2012

PRESENT	
Donald E. Holliday, Chairman	
Georgia Otero Kirkham, Vice-Chair	
Lawrence R. Romero, Member	
Ron Gentry, Member	
Mary J. Andersen, Member	
Eric Zamora, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Sally Perea, County Clerk	
Press and Public	

- 1) The meeting was called to order by Chairman Donald Holliday at 9:30 A.M.
- 2) Chairman Holliday led the Pledge of Allegiance.
- 3) Approval of Agenda
Commissioner Otero-Kirkham moved for approval of the agenda. Seconded by Commissioner Romero. Motion carried unanimously.
- 4) Approval of Minutes:
None.

PRESENTATION(S)

- 5) Village of Los Lunas Community Branding – Jim Glover
Mr. Glover from the Idea Group of Santa Fe has been working with the Village of Los Lunas on their Community Branding effort. Mr. Glover gave a brief power point presentation on Phase I and what has been accomplished. An extensive research study was completed on the Village of Los Lunas. Community Branding is about location. It enhances pride and satisfaction of resident, increases tourism, recruits and retains talent, attracts new business. The research approach consists of fifteen hours of interviews; it focuses on groups that include the youth, residents, business & organization, city officials and administrators. It also included an online survey. Phase II will consist of developing a unified community brand, rallying support for a community brand, indentifying brand ambassadors, updating the website with branding information, sharing information with Valencia County, enhancing economic development marketing and enhancing visitor center usage.
- 6) Solid Waste Planning Committee Update
Solid Waste Committee Member James Crawford gave a brief summary as to where the committee is at and where they are going. Mr. Crawford said they've held six committee meetings with the first meeting held on November 3, 2011. The first few meetings were organizational meetings, other meetings included presentations by the New Mexico Environmental Departments in regards to the state rules and regulations and one meeting focused on all the potential vendors in the county which allowed them to make presentations to the committee on what their prospective was in regards to solid waste. There have been lots of ideas, have shared proposals back and forth and a lot of discussion has come from this. There has been some solid progress and probably will come to a conclusion before long. The three public meetings have been sparsely attended. Its Mr. Crawfords view that the mass majority of the comments from the public meetings and emails received favored a non-exclusive non-mandatory program. The people are looking for greater flexibility, choice of service options and were pretty much against one size fits all kind of a program. There was a good turnout of the vendor group at every meeting and they're the group that favors an exclusive mandatory program. The two will be basically mandatory verses non-mandatory, exclusive verses non-exclusive. The committee will present to the commission two options for commission review along with an analysis of the advantages and disadvantages of the two options.

DISCUSSION (non-Action) ITEM(S)**7) Department Reports – Finance**

County Manager Eric Zamora gave an update on the December 31st report based on the revenues from the first half tax collections. Total revenues as of 12/31/2011 are approximately \$270,000.00 above projected revenues. There are two primary factors within that which the property taxes did come in a bit higher than were projected and the county equalization funding came in a little higher than anticipated. The gross receipts tax is down a bit and motor vehicles fees are up and the other revenues are down due to the fact that we're not through the fiscal year yet. These are revenues that will continue to increase as we get through the end of June.

The county is within its budgets across the board. A factor that does need to be addressed is this current fiscal year there was a pay day on July 1st and that was budgeted in the prior years budget so in that prior years budget would show an excess in salaries and going into this budget year, we are going to be a bit short in that regard. It's just that the reporting timing did coincide well with the budget but the adjustments have been made and there are sufficient funds to cover that one extra pay period.

Mr. Zamora conducted an interview for the finance director's position with a strong candidate who has years of experience in county setting, has direct experience with the county's current auditors, current experience with the Triadic software and in his current capacity has preformed a flawless audit to the Department of Finance and Administration. Mr. Zamora's will present this to the commission at the February 15th meeting for consideration for employment.

Commissioner Gentry asked Mr. Zamora if he and staff would look at an across the board consideration of a raise for all county employees. It's been more than 3 years since any of the employees have had a decent raise or any raise at all and in conjunction with what monies would be available to develop a few scenarios for the commission to look at in the upcoming budget.

8) Reports from Manager, Commissions, and Boards & Committees

County Manager Eric Zamora informed the commission and the public of a Wednesday February 15th public information meeting for the New Mexico 47 Peralta corridor study at the Peralta Elementary School on Hwy. 47. This is for the widening of Hwy 47 through Peralta. Open house is at 6:00 P.M., presentation at 7:00 and question and answer period at 7:30.

Mr. Zamora said the National Association of Counties is providing a no charge service which gives the county an opportunity to make a video presentation which would be located on their website and allow outsiders who are interested in Valencia County to view what the county wants to present as far as the county's image. What the proposal is, to make the video, place it on the website and would also make it possible to attach a portal for local businesses to advertise their businesses. Part of the funding would come from these local businesses. They would contract with this company that Mr. Zamora is in discussion with. There is a fee of between \$1,000 - \$6,000 depending on quality and the content of the presentation. This helps to support their efforts and this is how the county gets this at no charge.

ACTION ITEM(S)**9) Consideration of Resolution 2012-___, Public Participation at Valencia County Commission Meetings – Chairman Donald Holliday**

Commissioner Andersen moved to table the resolution until further date. Seconded by Commission Romero. Motion carried unanimously.

10 Consideration of MOU between Valencia County and Belen, Participation in Recycling Program – Eric Zamora / Sarah Schnell

Commissioner Andersen moved for approval. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously. (See Exhibit A)

11) Consideration of Professional Services Agreement VCJJB Reception Assessment Services – Joe Chavez / Cynthia Ferrari

Commissioner Gentry motioned for approval. Seconded by Commissioner Andersen. Motion carried unanimously. (See Exhibit B)

12) Consideration of MOA between NM Department of Health and Valencia County – Eric Zamora / Glenda Chavez

Commissioner Gentry moved for approval. Seconded by Commissioner Romero. Motion carried unanimously. (See Exhibit C)

13) Consideration of an Amendment to the Personnel Policy in regard to Leave Requirements During a contested Election – County Commission

Minutes of February 1, 2012 Regular Business Meeting

Commissioner Otero-Kirkham moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously.

County Clerk Sally Perea announced Resolution 2012-10. (See Exhibit D)

14) Consideration of Architectural Services Contract-Jail Expansion – Eric Zamora

Commissioner Andersen moved for approval with the stipulation that Purchasing Agent Michael Vinyard first review the contract. Seconded by Commissioner Gentry. Motion carried unanimously. (See Exhibit E)

15) Consideration of a Grant Agreement for Purchasing of Vehicles for the Older American Program – Ruben Chavez / Jose Campos.

Commissioner Gentry moved for approval. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously. (See Exhibit F)

FINANCIAL MATTERS:

16) Consideration of Approval Payroll / Warrants – Eric Zamora / Christina Card

Commissioner Otero-Kirkham moved for approval. Seconded by Commissioner Andersen. Motion carried unanimously. (See Exhibit G)

PUBLIC COMMENTS:

Those members of the audience making comments were Valencia County residents Mike Wood, Clarke Metcalf, Mary Wood, James Crawford, Sue Moran and Bob Gostischa.

NEXT COMMISSION MEETING:

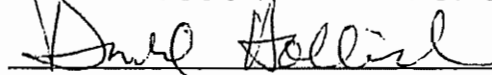
The next Public Hearing Meeting of the Valencia County Board of County Commission will be held on February 8, 2012 at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.

11) Adjournment

Commissioner Andersen moved for adjournment. Seconded by Commissioner Otero-Kirkham. Motion carried unanimously. TIME 11:46 A.M.


NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the February 1, 2012 Business Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.

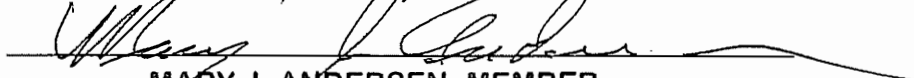
VALENCIA COUNTY BOARD OF COMMISSIONERS


DONALD E. HOLLIDAY, CHAIRMAN


GEORGIA OTERO-KIRKHAM, VICE-CHAIR


LAWRENCE R. ROMERO, MEMBER


RON GENTRY, MEMBER


MARY J. ANDERSEN, MEMBER

ATTEST:


SALLY PEREA, COUNTY CLERK

2-15-2012
DATE

MEMORANDUM OF UNDERSTANDING
BETWEEN
VALENCIA COUNTY AND BELEN
PARTICIPATION IN RECYCLING PROGRAM

THIS AGREEMENT is entered into by and between the County of Valencia ("County") and the City of Belen ("Belen").

I. RECITALS

WHEREAS, the County of Valencia and the City of Belen are bodies politic, existing by and under the Constitution and Laws of the State of New Mexico; and,

WHEREAS, Belen has operated a recycling program and has recently graciously opened its doors to County residents; and,

WHEREAS, about half of the users of the Belen Recycling Program are County Residents; and,

WHEREAS, as of yet, Belen has borne the total cost of operating a Recycling Program; and,

WHEREAS, the County desires to participate in making the Recycling Program available to County residents.

NOW THEREFORE the parties hereby agree as follows:

II. AUTHORIZATION

It is within the power of the County to protect its property and that of its inhabitants, and To "preserve peace and order" and "provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of ... its Inhabitants". See NMSA 1978 § 3-18-1 (1972); NMSA 1978, § 4-37-1 (1995).

III. SCOPE OF DUTIES

THE COUNTY OF VALENCIA SHALL

A. Pay Belen the sum of up to six hundred dollars (\$600.00) per month to cover tipping fees for the Belen Recycling Program.

B. Pay the tipping fees for the Belen Recycling Program to Belen upon receipt of monthly invoices with sufficient supporting documentation, as determined sufficient and approved by Valencia county.

C. Make payment within thirty days of receipt of the invoice, which shall constitute full and complete compensation for the County's residents use of the Recycling Program.

BELEN SHALL

A. Take all actions necessary to continue to operate and upgrade the recycling facility, and to ensure that the Recycling services are provided as scheduled to Valencia County residents.

B. Submit monthly invoices to Valencia County.

C. Accept payment of the above-described funds as full and complete compensation for Valencia County's residents use of the recycling services.

D. Continue to bear all remaining costs associated with the Recycling Program.

IV. TERM

This MOA becomes effective upon signature by all parties hereto and shall remain in Effect until the earliest of the following events:

A. For one year from the date of execution or otherwise; or

B. The establishing of a countywide program for waste disposal; or

C. Until otherwise terminated pursuant to Section XII of this document.

Memorandum of Agreement
Participation in Recycling Program

V. STRICT ACCOUNTABILITY OF ALL RECEIPTS AND DISBURSEMENTS

Each party shall be strictly accountable for all receipts and disbursements under this Agreement.

VI. AMENDMENT

This MOA may not be altered, modified or amended except by an instrument in writing executed by both parties hereto.

VII. ASSIGNMENT

This MOA may not be assigned by either party hereto without the advance written consent of the other party, which consent may be withheld at the other party's sole and absolute discretion.

VIII. GOVERNING LAW

This MOA and the rights of the parties hereto shall be governed by and construed in accordance with the Laws of the State of New Mexico.

IX. SEVERABILITY

If any provision of this MOA, or the application of such provisions to any person or circumstances shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this MOA, or the application of its provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and the remainder of this MOA can be performed in substantial accordance with the original intent of the parties hereto.

X. INTEGRATION OF MOA

This MOA incorporates all of the agreements and understandings between the parties hereto concerning the subject matter hereof, and all such agreements and understandings have been merged into this written MOA. No prior agreements or understandings, verbal or otherwise, of the parties or their agents are valid or enforceable unless embodied in this MOA.

XI. NEW MEXICO TORT CLAIMS ACT

By entering into this MOA, each party agrees that it shall be responsible for liability arising from personal injury or damage to property occasioned by its own agenda or employees in the performance of this MOA, subject in all cases to the immunities and

limitation of the New Mexico Tort Claims Act (NMSA 1978, Section 41-4-1, et seq.) and any amendments thereto. This section is intended to define the liabilities between the parties hereto and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act. The parties and their "public employees," as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, and do not waive any defense or limitations of liability pursuant to law. No provision in this MOA modifies and/or waives any provisions of the New Mexico Tort Claims Act.

XII. TERMINATION OF MOA

This MOA may be terminated by any party upon fourteen (14) days written notice delivered to the other.

XIII. CONTACT AND NOTICES

The parties may, from time to time, change their contact person and shall provide prompt notice of such change to the other party. Any notice required under this MOA shall be deemed given and delivered to, and received by, the receiving party three (3) days after deposit in the U. S. Mail, certified mail, return receipt requested, postage prepaid, addressed to the receiving party at the mailing address set forth below:

Valencia County contact person name and address:

Eric Zamora
Valencia County Manager
P. O. Box 1119
Los Lunas, NM 87031

Telephone No: (505) 866-2003
Facsimile No: (505) 866-2424

Belen contact person name and mailing address:

Lucy Baca
Interim City Manager
100 S. Main Street
Belen, NM 87002

Telephone No: (505) 966-2732
Facsimile No: (505) 966-2732

XIV. SUBCONTRACTING

Memorandum of Agreement
Participation in Recycling Program

Each party is responsible for fulfillment of this MOA and shall not subcontract any of its responsibilities.

PASSED, APPROVED, AND ADOPTED, on this 1st day of February 2012.

BOARD OF COUNTY COMMISSIONERS OF VALENCIA COUNTY

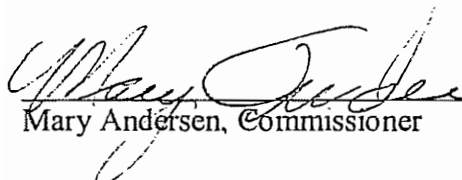
P. O. Box 1119 / 444 Luna Ave
Los Lunas, NM 87031



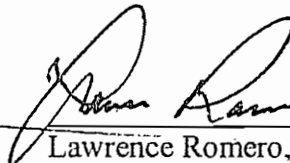
Don Holiday, Chair



Georgia Otero-Kirkham, Vice Chair



Mary Andersen, Commissioner

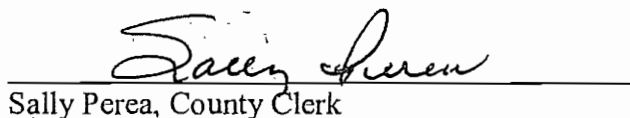


Lawrence Romero, Commissioner



Ron Gentry, Commissioner

ATTEST BY:



Sally Perea, County Clerk

Date: 2-1-2012

Memorandum of Agreement
Participation in Recycling Program

Mary Lucy Baca, Int. City Manager
Name, Position,
Belen

Subscribed and sworn to before me on this 7th day of February 2012 by

Mary Lucy Baca Name position
Interim City Manager

SEAL

Quita L. Romero
Notary Public

My Commission expires:

April 10, 2013

Memorandum of Agreement
Participation in Recycling Program

**PROFESSIONAL SERVICES AGREEMENT
VCJJB RECEPTION ASSESSMENT SERVICES**

THIS AGREEMENT is entered into by and between the County of Valencia and New Day whose address is 1300 San Pedro NE, Suite 201-B Albuquerque, NM 87110 henceforth known as the "Contractor".

WHEREAS, the County of Valencia is the government entity in Valencia County receiving and administering funds from the New Mexico Children, Youth and Families Department to develop programs/services which provide non-secure alternatives to detention for juvenile offenders in the County.

NOW THEREFORE, the County and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

I. Period of Agreement

This agreement shall become effective October 1, 2011 and shall terminate on June 30, 2012, unless terminated pursuant to Article VI, infra.

II. Statement of Work

The Contractor shall provide the program of services as set forth in the scope of work, which is attached hereto as "**Attachment 1 – Statement of Work**" and incorporated herein by reference, unless amended or terminated pursuant to Article XII (10) or terminated pursuant to Article VIII (6), infra.

III. Limitation of Cost

The total amount of the monies appropriated to the Contractor and made payable to the Contractor under this Agreement shall not exceed a total of twenty two thousand dollars (\$22,000.00). The annual budget is attached hereto as "**Attachment 2 - Budget**" and incorporated herein by reference.

IV. Compensation

- a. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed \$22,000.00. Payments shall only be made as outlined in the budget which is made part of this Agreement as "**Attachment 2 – Budget**". This amount is a maximum and not a guarantee that the work assigned to Contractor under this Agreement to be performed shall equal the amount stated herein.
- b. The County shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the "**Scope of Work – Attachment I.**"

(EXHIBIT B)

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The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor. The total amount of monies payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed \$22,000.00. All invoices MUST BE received by the County 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.

- c. Contractor must submit a detailed statement of accounting for all services performed and expenses incurred. If the County 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 County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance.

V. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, this Agreement shall terminate immediately upon written notice being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

VI. Status of Contractor

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of County vehicles, or any other benefits afforded to employees of the County as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The contractor agrees not to purport to bind the County unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

VII. Return of Funds

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the County.

VIII. Termination of Agreement

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THE PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE COUNTY OR STATE OF NEW MEXICO IN SUCH CIRCUMSTANCES AS CONTRACTOR'S DEFAULT/BREACH OF CONTRACT.

IX. Funds Accountability

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration and the State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments.

X. Maintenance of Records

The Agency shall maintain records as required of any administering state County pursuant to applicable state law and regulation. The Contractor shall maintain fiscal and programmatic records relative to those funds and activities that have been made subject to this Agreement for a minimum of three (3) years.

XI. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County, or unless required to disclose by a court of competent jurisdiction.

XII. Amendments

This Agreement shall not be altered, changed, or amended except by an instrument, in writing, executed and approved by both parties.

XIII. Assignment

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

XIV. Applicable Law

The laws of the State of New Mexico shall govern this Agreement, without giving effect to this choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

XV. Liability

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

XVI. Execution of Documents

The County and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

XVII. Sub-Contracts

The Contractor shall be ultimately responsible for all items enumerated in “**Attachment 1**” of this Agreement. The Contractor shall seek advance approval from the County of all sub-contracts, including qualifications and job descriptions for any professional service sub-contract.

XVIII. Equal Opportunity Compliance

The Contractor agrees 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 of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, sexual orientation, age, or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

XIX. Workers' Compensation

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.


XX. Lobbying Certification

The Contractor, by signing below, certifies to the best of his/her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any County, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any County, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. (United States Code). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

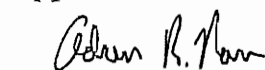
IN WITNESS WHEREOF, the County and the Contractor have caused this Agreement to be executed, said Agreement to become effective when signed by both parties.

County


Eric Zamora, County Manager

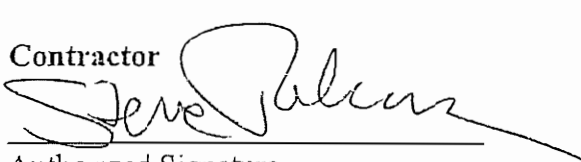
Date: 2-1-12

Approved as to form:


County Attorney

Date: February 1, 2012

Contractor


Authorized Signature

Executive Director

Printed Title of Authorized Signatory

Date: 1-17-12

Attachment 1- Scope of Work
Valencia County

The Contractor shall provide Reception and Assessment Services as a means of detention diversion to Valencia County.

RAC is a detention diversion program. It is designed to provide law enforcement an alternative to incarceration for youth who have been detained for low level misdemeanor or felony offenses. The goal is to intervene swiftly and connect youth and their family to community resources to prevent further involvement with the juvenile justice system.

RAC offices located in Valencia County will be open 20 hours per week, times to be negotiated with the Juvenile Justice Board and Coordinator. RAC will include the following:

1. Law enforcement officers who have detained youth for low level offenses will bring them to the Reception Assessment Center.
2. RAC staff accept the youth, return the officer to the field.
3. RAC staff work with the youth to complete a functional assessment which covers his or her current status in school, home, family and community. This includes peer influences, feelings, self-harm potential, substances use, etc.
4. This assessment is shared with the family when they pick up the youth. A Caregiver Assessment may also be completed. Based on the findings, families are offered follow-up services to help them meet any identified needs.
5. RAC staff contact families over the next 30 days to check if they were able to access services and see if they need any further assistance.

1. RAC Shelter Services

- a. RAC services are available at the New Day Shelter 24 hours per day, 365 days per year.
- b. New Day has 16 shelter beds available 24 hours per day, 365 days a year to youth served by the RAC program. If the shelter is at capacity when RAC services are needed, referrals to alternate placements will be made.

Attachment 2 – Budget

Valencia County

Second Revised Attachment 2 – Budget

Valencia County

<u>Description</u>	<u>Amount</u>
Professional Services:	
Contracting Agency for Assessment Study:	
➤ Design, development and implement Valencia County assessment tool	\$0.00
➤ Continuum Coordinator supervising community assessment and program development.	\$25,000.00
Increase amended amount for FY 2012 (July 1, 2011-Sept. 30, 2011)	\$7,500.00
Increase amended amount for FY 2012 (Oct. 1, 2011-June 30, 2012)	\$50,000.00
*Travel:	
Mileage and per Diem	\$ 3,000.00
Miscellaneous expenses:	
Printing, data collection instruments, postage, faxing & Supplies	\$ 2,000.00
<u>Training</u>	<u>\$ 0.00</u>
TOTAL Budget	\$87,500.00

The total amount of this contract shall not exceed \$87,500.00, including gross receipt taxes.

Valencia County agrees that expenditures will not deviate from the project budget without prior written approval from the designated Agency's program manager. Funds may be moved between individual line items in the budget with written pre-approval by the Agency's Program Manager. Initiate a pre-approval by submitting a Budget Adjustment Request to the Agency's Program Manager.

* Per Diem and mileage, and other miscellaneous expenses, will be paid in accordance with the department of Finance and Administration (DFA) Rule 2.42.2 NMAC.

Federal Funding Source:

Grant Name: JABG Federal Grant
Grant Number: 2009-JB-FX-0020
CFDA Number: 16.523
Award Year: 2009
DUNS #: 788-20-3081

MEMORANDUM OF AGREEMENT
Between
New Mexico Department of Health
And
Valencia County

This Agreement entered into between the New Mexico Department of Health (DOH) and Valencia County, the entity providing services (Entity).

IT IS AGREED BETWEEN THE PARTIES

1. **PURPOSE**

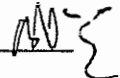
The purpose of this agreement is to provide continued guidance and financial resources to Valencia County, one of four counties within the Metropolitan Statistical Area (MSA) for the Cities Readiness Initiative (CRI). The CRI is a federally funded effort to prepare major U.S. cities and metropolitan areas to effectively respond to a large scale bioterrorist event, including the ability to provide Strategic National Stockpile (SNS) countermeasures to the entire identified population within 48 hours. Funding for the CRI is provided through the Centers for Disease Control and Prevention (CDC) Public Health Emergency Preparedness Cooperative Agreement and managed through the Bureau of Health Emergency Management (BHEM) within DOH. The funding is provided to enhance the mass dispensing and distributing capabilities of the CRI/MSA jurisdictions.

The GOAL of the CRI is to improve readiness in the MSA by accomplishing the tasks and producing the deliverables/documentation as identified in the Technical Assistance Review (TAR). The tasks are as identified in the CDC Public Health Emergency Preparedness Program Cooperative Agreement Guidance and Requirements. Budget Period XI from August 10, 2011 through August 9, 2012.

2. **SCOPE OF WORK**

A. The Entity shall perform the following work:


TASK #	TASK	DELIVERABLES/REPORTS/ PERFORMANCE MEASURES	DUE DATE
1.	In Consultation with BHEM, and as a CRI/MSA partner; prepare for and participate in all aspects of the single planning jurisdiction and the development of a regional response plan. Including meetings, planning, training, drills, exercises and reporting requirements as well as attendance and participation in the 2012 Local TAR. Such participation shall include, but is not limited to the following:		Through 8/9/2012

Entity's initials 

BHEM CRI MOA –Valencia County

	<p>A. Participate in the process to ensure that the CRI/MSA operates as a single planning jurisdiction in preparation for any incident or event that requires the distribution of Strategic National Stockpile (SNS) assets.</p> <p>B. Collaborate with BHEM and the CRI/MSA partners to develop local SNS planning elements and ensure that these elements are included in the local Emergency Operations Plan (EOP).</p> <p>C. Ensure that all required elements of the Centers for Disease Control and Prevention (CDC) Local Technical Assistance Review (TAR) are completed.</p> <p>D. Attend or provide representation to all related meetings.</p> <p>E. The participation of essential personnel with CRI/MSA partners in BHEM sponsored training courses or the development and presentation of the required training programs for the CRI/MSA essential personnel.</p> <p>Annual Required Training:</p> <ol style="list-style-type: none"> 1. Overall SNS Planning Elements 2. Management of Operations 3. Local-State requesting SNS Procedures 4. POD - requesting SNS Procedures 	<p>Provide documentation in the form of:</p> <p>A. The Emergency Manager's signature on the agreement document that states all of the partners together represent one comprehensive CRI/MSA planning jurisdiction.</p> <p>B. Completion of Incident Action Plans (IAP), the EOP Annex and incorporation of the required TAR elements into the local EOP.</p> <p>C. On a quarterly basis, provide BHEM with the required documentation to demonstrate completion of the local TAR elements. (See Attachment A)</p> <p>D. Meeting minutes and sign-in sheets.</p> <p>E. Participation and attendance as demonstrated by attendee sign-in sheets, meeting minutes and specific information documenting the development of the required training courses. Provide BHEM with the required documentation on a quarterly basis and in full prior to or with the invoice for reimbursement.</p>	<p>On or before 5/15/2012</p> <p>On or before: 5/15/2012</p> <p>Ongoing</p> <p>Ongoing</p> <p>Ongoing</p>
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<p>5. Tactical Communication Plan 6. Public Information and Communication 7. Security Operations 8. Inventory Management System 9. Distribution Operations 10. Hospitals and Alternate Care Facilities Coordination</p> <p>F. The participation in drill and exercise planning and the participation of essential personnel with CRI/MSA partners in BHEM sponsored drills and exercises to meet the TAR and Composite Measure requirements. All drills and exercises must be in compliance with Homeland Security Exercise and Evaluation Program (HSEEP) standards.</p> <p>Required Drills and Exercises:</p> <ol style="list-style-type: none"> 1. Call Down exercises of key functional positions on a quarterly basis. 2. Call Down Drill 3. Site Activation Drill 4. Site Setup Drill 5. Table Top Exercise 6. Full Scale Exercise (FSE): <ol style="list-style-type: none"> a. Initial Planning Conference b. Mid-term Planning Conference c. Final Planning Conference d. FSE e. Hot-wash <p>G. Prepare for, attend and participate in the 2012 mock/preview Local TAR and the CDC Local TAR as scheduled.</p>	<p>F. Participation by the CRI/MSA partners and essential personnel in the planning and execution of BHEM sponsored drills and exercises as demonstrated by attendee sign-in sheets and meeting minutes. Or, the specific information documenting the development and execution of HSEEP compliant drills and exercises by the CRI/MSA partners and essential personnel to meet the TAR and Composite Measure requirements. Provide BHEM with the required documentation on a quarterly basis and in full prior to or with invoice for reimbursement.</p> <p>G. Provide the required documentation prior to the scheduled local TARs.</p>	<p>Required documentation for all drills and exercises: Ongoing</p> <p>Documentation required two weeks prior to the scheduled TARs.</p>
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Entity's initials 

BHEM CRI MOA –Valencia County

		Be prepared to give a presentation at the CDC Local TAR with regard to the accomplishments, challenges and barriers of the past year with the CRI/MSA.	Attendance and participation at the Local TARs.
2.	The purchase of required supplies and equipment, travel or contractual personnel or services during the term of this agreement for CRI program purposes. The required purchases are for use by this County and CRI/MSA partners in the response to public health emergencies and for emergency preparedness training, exercises and drills.	<p>Submit all purchase requests to BHEM for approval prior to purchase.</p> <p>Provide copies of paid vendor invoices and receipt of equipment for all purchased supplies and equipment, travel or contractual personnel or services.</p> <p>An inventory, including a photograph and the location of any single equipment item that has a purchase price of \$5,000 or more must be sent to BHEM and updated annually.</p>	Invoices may be submitted for reimbursement as supplies and equipment are purchased and received prior to 8/9/2012.

B. Services will be performed within the Metropolitan Statistical Area (MSA) for the Cities Readiness Initiative (CRI). The MSA includes the City of Albuquerque; the counties of Bernalillo, Sandoval, Tarrant and Valencia; and the eight (8) Pueblos of Cochiti, Isleta, Jemez, Santo Domingo, Sandia, San Felipe, Santa Ana and Zia.

C. Performance Measures.

Through satisfactory completion of the Scope of Work set forth above, the Entity will assist the DOH to meet the portions of its 2012 Strategic Plan that relate to the mission of DOH to prevent, protect, provide, promote and partner to improve health services systems and assure that critical public health functions and safety net services are available. Further, a specific measure identified is:

Community Health Objective 5: Prepare New Mexico for health emergencies, including pandemic influenza.

3. ADMINISTERING AGENCY

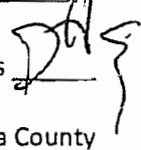
The administering agency is the DOH.

4. COMPENSATION

A. The total amount payable to the Entity under this Agreement, including gross receipts tax and expenses, shall not exceed \$21,345.00. This amount is a maximum and not a guarantee that the work assigned to Entity under this Agreement to be performed shall equal the amount stated herein.

- B. The DOH shall pay to the Entity in full payment for services satisfactorily performed based upon deliverables in the amount of **\$21,345.00** as set forth in **Article 2. Scope of Work**, Paragraph A above, such compensation not to exceed **\$21,345.00** as set forth in Paragraph A and in the Budget Table in Paragraph C below, including any applicable gross receipts tax. Payment is subject to availability of funds as appropriated by the Legislature to the DOH and to any negotiations between the parties from year to year pursuant to Article 2. Scope of Work. All invoices **MUST BE** received by the DOH 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**. Invoices shall be submitted monthly. The Entity shall submit to the DOH at the close of each month a signed invoice reflecting the total allowable costs incurred during the preceding month. No invoices will be reimbursed unless submitted within thirty (30) days after the last day of the month in which services were performed.
- C. The Project Budget is as follows:

TASK #	DELIVERABLES	BUDGET AMOUNT	FUNDING SOURCE - Reporting Category or Project ID (DOH USE ONLY)
1. A through G	<p>A. The Emergency Manager’s signature on the agreement document.</p> <p>B. Completion of Incident Action Plans (IAP), the EOP template and incorporation of the required TAR elements into the local EOP.</p> <p>C. Provide BHEM with the required documentation to demonstrate completion of the local TAR required elements. (See attachment A)</p> <p>D. Meeting minutes and sign-in sheets.</p> <p>E. Attendance and participation at BHEM sponsored training or the development and presentation of the required training programs for essential CRI/MSA personnel.</p> <p>F. Participation by the CRI/MSA partners and essential personnel in the planning and execution of BHEM sponsored drills and exercises or the development of the required HSEEP compliant drills and exercises for essential CRI/MSA personnel.</p> <p>G. Preparation for, attendance and participation at the Local TARs.</p>	<p>\$4,269.00</p> <p>For all tasks 1. A through G.</p>	<p>DOH BT 1213</p>

Entity's initials 

BHEM CRI MOA –Valencia County

2.	Reimbursement for the purchase of supplies and equipment pre-approved by BHEM and received within the contract period. Invoice and receipt verification to be submitted to BHEM for the purchase of required supplies and equipment, travel, contractual personnel or services pursuant to this agreement.	\$17,076.00	DOH BT 1213
	Subtotal	\$21,345.00	
	TOTAL	\$21,345.00	

- D. The Entity must submit a detailed statement accounting for all services performed and expenses incurred. If the DOH finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Entity that payment is requested, it shall provide the Entity a letter of exception explaining the defect or objection to the services, and outlining steps the Entity may take to provide remedial action. Upon certification by the DOH that the services have been received and accepted, payment shall be tendered to the Entity within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the DOH shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

5. **PROPERTY**

The parties understand and agree that property acquired under this Agreement shall be the property of the DOH.

6. **CLIENT RECORDS AND CONFIDENTIALITY**

- A. The Entity shall maintain complete confidential records for the benefit of clients, sufficient to fulfill the provisions of the Scope of Work, and to document the services rendered under the Scope of Work. All records maintained pursuant to this provision shall be available for inspection by the DOH.
- B. The Entity shall protect the confidentiality, privacy and security of all confidential information and records and shall not release any confidential information to any other third party without the express written authorization of the client when the record is a client record, or the DOH.
- C. The Entity shall comply with the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other state and federal rules, regulations and laws protecting the confidentiality of information. If the Entity may reasonably be expected to have access to any individual's Protected Health Information (PHI) received and maintained by DOH and is not a Covered Entity as defined by HIPAA, shall execute the HIPAA/HITECH Business Associate Agreement as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this Agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when

required by the DOH shall constitute grounds for termination of this Agreement in accordance with Article 9 of this Agreement.

7. FUNDS ACCOUNTABILITY

The Entity shall maintain detailed time and expenditure records, which indicate the date, time, nature, and costs of services rendered during the Agreement term and retain them for a period of three (3) years from the date of final payment under the Agreement. The records shall be subject to inspection by the DOH, the Department of Finance and Administration and the Office of the State Auditor. The DOH shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the DOH to recover excessive or illegal payments.

8. LIABILITY

As between the parties, each party will be responsible for claims or damages arising from personal injury or damage to persons or tangible property to the extent they result from negligence of its employees, subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1. et seq., NMSA 1978, as amended.

9. TERMINATION OF AGREEMENT

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the DOH's sole liability upon such termination shall be to pay for acceptable work performed prior to the Entity's receipt of the notice of termination, if the DOH is the terminating party, or the Entity's sending of the notice of termination, if the Entity is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Entity shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Entity if the Entity becomes unable to perform the services contracted for, as determined by the DOH or if, during the term of this Agreement, the Entity or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to insufficient appropriation by the Legislature to the DOH. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE STATE'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE ENTITY'S DEFAULT/BREACH OF THIS AGREEMENT.

10. APPLICABLE LAW

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978 Section 38-3-1(G). By execution of this Agreement, the Entity acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement. The parties agree to abide by all state and federal laws and regulations.

11. PERIOD OF AGREEMENT

This Agreement shall be effective upon approval of both parties and shall terminate on **August 9, 2012** or as stated in Article 9. Termination of Agreement. Any and all amendments shall be made in writing and shall be agreed to and executed by the respective parties before becoming effective.

7

Entity's initials

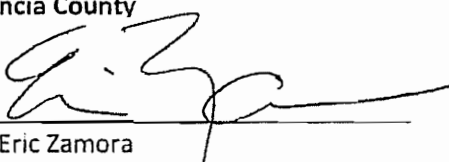


BHEM CRI MOA –Valencia County

IN WITNESS WHEREOF the parties have executed this AGREEMENT at Santa Fe, New Mexico. The effective date is upon approval of both parties.

New Mexico Department of Health**Valencia County**

By: _____
Catherine D. Torres, MD
Cabinet Secretary

By: 
Eric Zamora
County Manager

Date: _____

Date: 2-6-12

By: _____
Department of Health
General Counsel

By: Electronically Approved
Legal Counsel

Date: _____

Date: 2-6-12

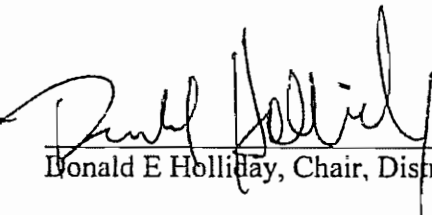


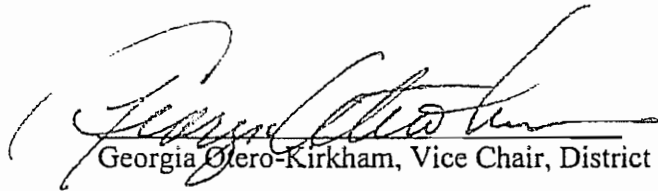
BOARD OF COUNTY COMMISSIONERS

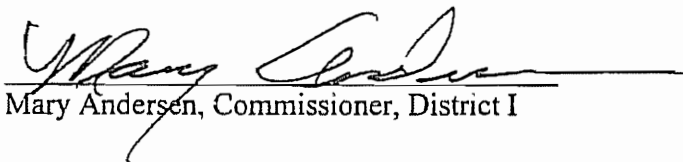
MOA between NM Department of Health and Valencia County

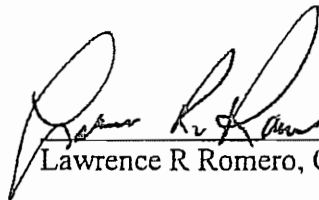
Presented at February 1, 2012 Business Meeting

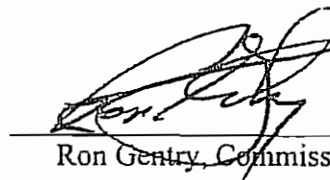
APPROVED, ADOPTED AND PASSED on this ____ day of February, 2012.


Donald E Holliday, Chair, District V

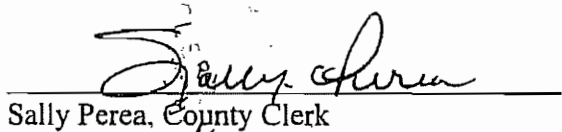

Georgia Otero-Kirkham, Vice Chair, District II


Mary Andersen, Commissioner, District I


Lawrence R Romero, Commissioner, District III


Ron Gentry, Commissioner, District IV

ATTEST:


Sally Perea, County Clerk (EXHBIT C)

Attachment A

The following list includes the specific Local TAR elements that represent Task 1. C deliverables

- 2.2 Contact information is documented for all personnel (lead and back-up) at the local level for key functional positions; (ALL) positions are required for full credit.
- 2.3 The call down list for key functional positions for the personnel identified in 2.2. is updated quarterly.
- 2.5 SNS functions have been incorporated under the applicable functional area of the jurisdiction's Incident Command Structure and are documented; (ALL) positions are required for full credit.
- 2.4 Call down exercises for key functional positions are conducted and documented quarterly.
- 2.6 There is a notification and activation plan and the process is exercised annually.
- 4.1 Tactical communication and/or IT support staff are included on the 2.2 list of personnel.
- 4.3 Redundant communication systems are in place and tested quarterly, (6) different of types of communication are required for full credit.
- 4.4 Documentation (matrix/flow chart) of communication pathways and support devices for command and management locations.
- 4.5 Communication networks (equipment/hardware) between command, management and support agencies are tested quarterly.
- 8.1 Primary and back-up Inventory Management Systems (IMS) are in place.



**VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
RESOLUTION NO. 2012-10**

**AMENDING THE VALENCIA COUNTY PERSONNEL POLICY,
RESOLUTION 2006-017**

WHEREAS, the Board of County Commissioners of Valencia County, met upon notice of meeting duly published on February 1st, 2012 at 9:30 A.M. in the Valencia County Administration Building, 444 Luna Avenue, Los Lunas, New Mexico 87301; and,

WHEREAS, Section 4-37-1 et seq. NMSA 1978 provides that counties may adopt ordinances, not inconsistent with statutory or constitutional limitations placed on counties, to discharge those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of the county and its inhabitants; and,

WHEREAS, NMSA 1978, Section 3-13-4 allows municipalities and counties to establish a personnel merit system for the hiring, promotion, discharge and general regulation of municipal and county employees; and,

WHEREAS, the Board of County Commissioners has adopted Ordinance 2006-05 allowing for established Personnel Rules and Regulations duly adopted by Resolution which further the intent of the Ordinance; and,

WHEREAS, pursuant to Section 6.6 of the present Personnel Rules and Regulations, a employee running in a contested election must take a thirty (30) day leave of absence from their position in County service; and,

WHEREAS, the Board of County Commissioners of Valencia County recognizes that requiring an employee take a thirty (30) day leave of absence to run for office places a significant financial burden upon the County employee, forces a thirty (30) day vacancy in a necessary County position that may render it difficult for the County to provide necessary services to the public, and may serve to deter a County employee from running for an office for which they may be particularly experienced and well-suited.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Valencia that Resolution 2006-017 is amended as follows:

6.6 PUBLIC/POLITICAL OFFICE.

A. Employees covered by the provisions of the Hatch Act [5 U.S.C. Sections 1501 to 1508] may not be candidates for partisan political office elections.

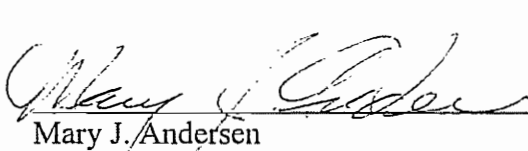
B. Employees may be candidates for nonpartisan political office, subject to the restriction set forth in subsection B of this section. (EXHIBIT D)

C. Being a local school board member or a member of any post-secondary educational institution's governing body shall not be construed as holding political office.

D. Employees may not hold a County political office and be a regular full-time, or at-will full-time, employee with the County.

APPROVED, ADOPTED, AND PASSED on this 1st day of February 2012.

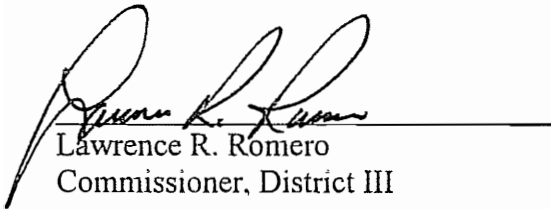
BOARD OF COUNTY COMMISSIONERS



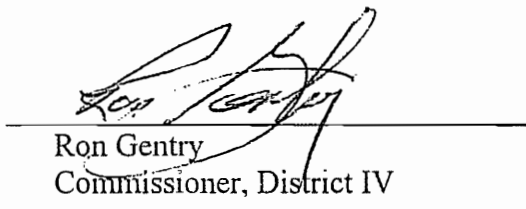
Mary J. Andersen
Commissioner, District I



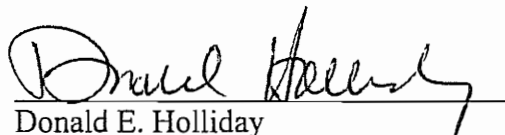
Georgia Otero-Kirkham
Commissioner, District II



Lawrence R. Romero
Commissioner, District III

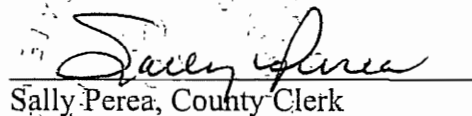


Ron Gentry
Commissioner, District IV



Donald E. Holliday
Commissioner, District V

Attest:

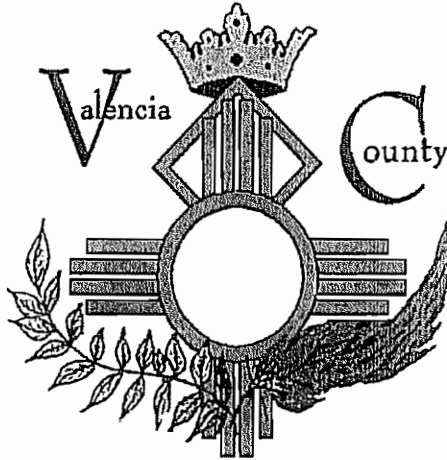


Sally Perea, County Clerk

AGREEMENT BETWEEN OWNER AND ARCHITECT

[This Document has important legal consequences; consultation with an Attorney
is encouraged with respect to its completion or modification]

Project: Valencia County Detention Center Addition Contract Number: _____
436 Courthouse Rd. Project Number: _____
Location: Los Lunas, NM 87031



Distribution to:

- ☐ Owner
☐ Architect
☐ Other

This Agreement entered into this _____ day of _____, 20____ by and between:

Hereinafter "**Owner**";

VALENCIA COUNTY
P. O. Box 1119
444 Luna Ave.
Los Lunas, New Mexico 87031
Telephone: 505-866-2014 Fax: 505-866-3355
E- Mail Address:

And hereinafter "**Architect**";

Scott Anderson & Associates Architects

7604 Rio Penasco NW

Albuquerque, NM 87120

Telephone: 505- 401 - 7575
E- Mail Address: andersonscottc@comcast.net

(EXHIBIT E)

BOOK 72

PAGE 805

Professional and technical services shall be provided by Scott Anderson & Associates Architects, the Project Architect, Scott C. Anderson, whose New Mexico Architect's seal and certificate number is 4341 and Federal ID Number is 27-1625558.

TABLE OF CONTENTS

Article 1	Definitions	Article 9	Ownership and Use of Documents
Article 2	Architect's Services and Responsibilities	Article 10	Termination of Agreement
Article 3	User Representative	Article 11	General and Special Provisions
Article 4	Owner's Responsibilities	Article 12	Maintenance
Article 5	Construction Cost	Article 13	Basis of Compensation
Article 6	Reimbursable Expenses	Article 14	Other Conditions or Services
Article 7	Payment to the Architect		
Article 8	Architect's Records & Audit		

RECITALS

WHEREAS, the state Legislature or _____ has funded the above-referenced project pursuant to Laws of _____, Chapter _____, Section _____, Subsection _____; and

WHEREAS, the Architect was selected pursuant to the Architect, Engineer, and Land Surveyor Selection Committee pursuant to Section 13-1-119 through 13-1-124 NMSA 1978; and

WHEREAS, the Owner is authorized to enter into a contract to design and construct the Project pursuant to Sections 13-1-100; and

WHEREAS, the Owner must hire a legal resident registered architect of New Mexico whenever any public work involves architectural services, pursuant to Section 61-15-9, NMSA 1978; and

WHEREAS, the Architect hereby represents that it employs the named Project Architect, and that such architect is a legal resident registered architect of New Mexico; and

WHEREAS, the Owner agrees to hire the Architect, and the Architect agrees to provide professional and technical services as required hereinafter for the Project in accordance with the terms and conditions set forth in this Agreement;

IT IS THEREFORE AGREED AS FOLLOWS:

**ARTICLE 1
DEFINITIONS**

For purposes of this Agreement, the following definitions shall apply throughout the contract and to all attachments incorporated herein, unless otherwise specified.

1.1 ARCHITECT: The firm named in this Agreement which employs a legal resident registered architect of New Mexico or an individual legal resident registered architect of New Mexico. In the instance of a firm, the term "Architect" shall include the Project Architect.

1.2 CENTRAL PURCHASING OFFICE: The Central Purchasing Office is the Purchasing Agent of the Owner.

1.3 CODES: All federal, state, and local codes applicable to the Project.

1.4 DIRECT SALARY: The gross wages, which do not include costs of employer beyond the amounts of the paychecks.

1.5 GOVERNING AUTHORITY: The governing authority for the award of construction contracts is the Board of County Commissioners, and the governing authority for the execution of construction contracts the Board of County Commissioners.

1.6 MACC: Maximum Allowable Construction Cost is the total sum available for construction purposes, including furnishings and equipment, but excluding professional fees, Owner's contingency funds and acquisition costs, and other costs which are the responsibility of the Owner as described in Article 5 and Article 6 of this Agreement.

1.7 OWNER: the County of Valencia, State of New Mexico.

1.8 PROJECT: The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part. The Project is further defined in article 2 of this agreement. Support services shall include as a minimum: programming, schematic design, design development, construction documents and bidding, contract negotiations, construction administration, project closeout, eleven month warranty inspection, and furniture and equipment.

1.9 PROJECT ARCHITECT: The individual legal resident registered architect of the state of New Mexico who shall sign and affix his New Mexico Architect's seal to all plans, designs, drawings, specifications, and reports which involve the Project. The Project Architect shall be mutually agreed upon by Owner and Architect at the time this Agreement is entered into by the parties and shall be named herein.

1.10 REIMBURSABLE EXPENSES:
Expenses in addition to the basic services compensation which shall include actual expenditures made by the Architect or its employees in the interest of the Project (while performing architectural services pursuant to this Agreement) and limited to those items listed in Article 6 of this Agreement and authorized in writing by the Owner.

1.11 SITE: The physical location on which the Project is built, including all land acquired for the Project or associated with the Project, including all easements and rights-of-way.

1.12 USER (or USER AGENCY): The Owner Owner or designated entity for whose use the Project is being constructed. For purposes of this Agreement, the Users are _____

1.13 USER REPRESENTATIVE: The individual designated by the User with the authority to bind the User with respect to this Agreement. See also Article 3 herein. For purposes of this Agreement, the User Representative is: _____.

1.14 OTHER DEFINITIONS: The remaining definitions are in Article 1, Definitions, of the conditions of the Contract for Construction, as provided as a part Owners Division 0, Bidding and Contract Requirements, on file with the Owner.

ARTICLE 2
ARCHITECT'S SERVICES AND RESPONSIBILITIES

2.0 EXTENT OF AGREEMENT AND SCOPE OF WORK: This Agreement includes the provisions of the Request for Proposals for Architectural Services, Project Title, RFP Number: _____ the architect's proposal, and all documents attached thereto and all documents attached thereto and all of which are hereby incorporated by reference as part of his Agreement s it if fully set forth herein. In case of conflict, the documents supersede each other in accordance with the following hierarchy: codes and applicable law, the body of this Agreement, and attachments to this Agreement.

Description of Scope: The Scope of Work shall include, but not be limited to the following:

The Owner will provide program and operational support through all phases of the project. The Owner may elect to provide overall project management. Owner reserves the right to revise the scope of work or the MACC for this project and adjust the fee accordingly.

2.0.1 BASIC SERVICES: The Architect's basic services shall consist of the following:

- A. Programming Phase
- B. Schematic Design Phase
- C. Design Development Phase
- D. Construction Documents Phase
- E. Bidding or Negotiation Phase
- F. Construction Phase
- G. Eleven month Warranty Inspection

The services to be provided during each phase are listed below and shall include all consulting services required by the Architect to provide the service.

2.0.2 The Architect shall request from the User Representative the following:

- A. Information sufficient for the Architect to develop program criteria including the User's goals, objectives, and needs, and the organizational chart of individuals and equipment that shall occupy the Project.
- B. To the extent practicable and reasonable, the Architect shall incorporate the User Representative's requests into the documents for construction; however, the Architect is responsible solely to the Owner for the types of material incorporated into the construction, the size of the facilities constructed, and to design within the MACC.

- C. A list (by manufacturer and model number) of special equipment (other than 110 volt, 60HZ, requiring less than 10 amps) that requires utility services, including telecommunication equipment such as data transmission and computer lines, which shall be designated by the Owner.

2.0.3 FURNISHINGS AND EQUIPMENT: The Architect shall provide as a basic service all required work for design, selection, and preparation of contract documents, and bidding for the procurement of furniture, furnishings, and related equipment, unless otherwise noted in Article 14.

2.0.4 PROJECT LEGISLATION OR AUTHORIZATION: The Architect shall request from the Owner and the User copies of documents supporting the funding request which were presented to the state legislature or other funding agencies that provided funds for construction of the envisioned facility. These documents will be furnished for information only. The Owner will establish a budget for utilization by the Architect in the performance of the services.

2.0.4.1 APPROPRIATIONS: The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the state Legislature or the Board of County Commissioners of Valencia County for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Owner, this Agreement shall terminate upon written notice being given by the Owner to the Architect. The Owners determination that sufficient appropriations and authorizations are not made by the Owner, this agreement shall terminate upon written notice being given by the Owner to the Architect. The Owner's determination that sufficient appropriations are not available shall be accepted by the Architect and shall be final.

2.0.5 SOILS ENGINEERING: The Architect shall acquire the services of a Soils Engineer or other consultant when the Architect deems such services necessary. The Architect shall, during the Schematic Design Phase, submit to the Owner a statement of necessary soils engineering services that will be required.

2.0.6 SOFTWARE REQUIREMENTS:

- A. Drawing Formats. All CAD drawings shall be supplied in DWG format and be readable by the Owner-supported CAD desktop software. Being 'readable' means the ability to open a file without any errors (such as proxy, font substitution, etc.) and with objects, layers, and other file properties remaining intact.
- B. Other Formats. File formats for word processor documents, spreadsheet documents, or slide presentations shall be those used by the Microsoft family of office software such as Word, Excel, and PowerPoint. Contract the Owner for Version. Macros may be included with these documents provide they are virus free, their function is explained next to the code, and they are not protected.
- C. Graphics shall be submitted in TIF, GIF, JPG, CALS, or PDF file format (compressed image formats only). This option is intended for photos, conceptual sketches, etc.. and not to indicate the raster file drawing will be accepted in place of AutoCAD DWG files.
- D. Data file formats for projects that employ information contained in a database or spreadsheet shall be those used by one of the following: Oracle, Microsoft Access, Microsoft SQL, or Microsoft Excel. All linkages or non-graphical data with graphic elements, relationships between database tables, and report formats shall be maintained. All database tables shall conform to the structure

and field naming guidance provided by the Owner. The Architect shall confirm database file format preference with the Owner prior to issuance of a database.

- E. File formats for project management documents shall be either that used by Microsoft Project or hard copy. Confirm file format with the Owner. Save project files with baseline.
- F. Deliverable integrating multiple file formats may be submitted as a PDF (version 4 or later) in addition to the base file structure. Examples include reports, photographs, and manuals created by using a variety of software packages and file formats. Confirm deliverable format preference with the Owner.
- G. Building Information Modeling (BIM). Projects and project teams are encouraged to utilize 3D object model and other building information model technology and software applications (including during project states of planning, design, construction, and handover to space management and facility operations and maintenance). Outputs from these applications are acceptable as deliverables to Owner, provided the 2D output is also submitted that fully compiles with all provisions herein.

2.0.7 STANDARD OF CARE: The Architect warrants that he and his employees shall possess the experience, knowledge, and character necessary to qualify them individually for the particular duties they perform in connection with the services to be performed under this Agreement. These services shall be performed in accordance with the standards of the profession. The Architect further agrees that he will require his consultants, sub-consultants, joint venturers, and agents to warrant to the Architect that they possess the experience, knowledge, and character necessary to qualify them individually for the particular duties that are performed in connection with the services to be performed for the Architect on the Project. This warranty shall further state that the services so entered shall be performed in accordance with the standards of the profession. Such warranty by consultants, sub-consultants, joint venturers, and agents shall not be construed as a diminution of the Architect's liability and responsibilities to the Owner.

2.1 PROGRAMMING PHASE

2.1.1 The program shall establish goals, collect facts, identify concepts, and determine functional needs necessary to complete the Project within the legislative mandate. Based on the data provided by the User Representative and pursuant to adequate consultation with the User Representative, the Architect shall prepare a document that adequately defines the scope of the Project. This document shall reflect the limits of the MACC.

2.1.2 Not Used.

2.1.3 The Owner and the User Representative shall work with the Architect to ensure that the information required by the Owner is made available to the Architect. This information and other requests concerning organization of functions shall be provided in the form of written memoranda.

2.1.4 The Owner shall schedule a meeting between the Architect and the User Representative to define the relationship among all parties. The Architect shall advise the Owner, in writing, of any information he requires which has not been provided by the Owner and/or the User Representative, or any conflicts between the established program requirements, the MACC, and the legislation authorizing the Project.

2.1.5 The Architect shall obtain the approval of the User Representative and the Owner, in writing, of the Program Phase before commencing work on the Schematic Design Phase. The Architect shall provide written confirmation, to be transmitted with the Program Document to the Owner, that the Architect has visited the site, familiarized himself/herself with the local conditions under which the work is to be performed, correlated his/her observations with current code requirements and life safety needs, and has a clear understanding of existing conditions for the Project.

2.2 SCHEMATIC DESIGN PHASE

2.2.1 From the approved program, the Architect shall prepare Schematic Design drawings and documents describing the general planning concepts, probable architectural, engineering, and building systems, types of materials envisioned a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the programmed areas. The Architect shall obtain the written approval of the User Representative and the Owner of the Schematic Design drawings and documents before commencing work on the Design Development Phase. The current State-adopted Uniform Building Code (UBC) and other relevant codes are incorporated into this Agreement by reference. Where applicable, the provisions of this document shall apply. The Architect shall brief and obtain the written approval of the User Representative and the Owner of the Schematic Design drawings and documents. This review and approval shall include the life cycle costs required by Subparagraph 12.1.4 of this Contract.

2.2.2 The Architect shall request site survey data in accordance with Paragraph 4.2.

2.2.3 The responsibility for bringing the Project within the MACC and compliance with construction directives remains with the Architect, as elaborated in Subparagraph 5.2.2. Should the Architect at any time conclude that the budget and the scope of the work to be accomplished are incompatible; the Owner shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 From the approved Schematic Design drawings and documents, the Architect shall prepare the Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of the entire Project as to structural, mechanical, and electrical systems materials and such other design essentials as may be appropriate. Additionally, these documents shall identify design features, program modifications, the probable Project Schedule, equipment installed in the Project or furnishings required, and a statement which identifies the need for any additional data, surveys, or tests. The Architect shall acquire the approval, in writing, of the User Representative and the Owner of all documents associated with the Design Development Phase before commencing work on the Construction Documents Phase.

2.3.2 The Architect shall submit to the Owner for review and written approval a refined statement of Probable Construction Cost at the completion of the Design Development Phase. Should the Architect conclude, at any time, that the budget and the scope of the work to be accomplished are incompatible; the Owner shall be notified immediately in writing, with proposed recommendations to reconcile the incompatibility.

2.3.3 Should the Owner initiate or require a material change from the approved Design Development Documents and there is no fault or responsibility of the Architect related to the Owner's initiation or requirement of the change, the Architect's effort implementing said change(s) shall be compensated as an

Additional Service and the schedule for delivery of Architect's services shall be equitably adjusted if/as appropriate.

2.4. CONSTRUCTION DOCUMENTS PHASE

2.4.1 From the approved Design Development Documents, the Architect shall prepare Bidding Documents setting forth in detail the requirements for the construction of the entire Project, which shall at a minimum include bid forms, the Conditions of the Contract for Construction (general, supplementary, and other conditions of the contract), and the Standard Form of Agreement between Owner and Contractor. The Architect shall incorporate in the Bidding Documents the provision of Information Available to Bidders incorporated by reference. The Invitation to Bid shall be prepared by the Architect or as directed by Owner, the bid date and time, which shall be prepared by the Owner and Architect. The Architect shall assist the Owner in filing the required documents for the approval of governmental and other authorities having jurisdiction over the Project.

2.4.1.1 Construction Drawings: In addition to the electronic CAD files, PDF files and related electronic documents, the Architect shall provide two full drawing sets to the Owner. The hard copy should be printed on non-glossy polyester film 3-mil thickness minimum. Standard Sheet sizes may be Architectural sizes 24" x 36" or 30" x 42".

2.4.1.2 Electronic Data: The Owner requires that final Construction documents and Specifications are prepared using computer technology in the formats prescribed in Subparagraph 2.0.6.

2.4.2 The Bidding Documents shall be based upon information contained in the Design Development Drawings and other documents previously approved by the Owner. Upon completion of the Bidding Documents, the Architect shall brief the User Representative and the Owner on the Bidding Documents, specifically addressing previously approved requirements contained in the Design Development Drawings and other documents. The Architect shall, at this briefing, furnish to the Owner a detailed cost estimate.

2.4.3 The responsibility for bringing the Project within the Maximum Allowable Construction Cost (MACC) and compliance with construction directives remains with the Architect, as elaborated in Article 5. Should the Architect at any time conclude that the budget and the scope of the work to be accomplished are incompatible; the Owner shall be notified immediately in writing, with proposed recommendations to reconcile same.

2.4.4 The Architect shall furnish Bidding Documents to the Owner bearing the approval of the following:

- A. Construction Industries Division, Regulation and Licensing Department;
- B. If applicable, Occupational Health and Safety Bureau, Environmental Improvement Division, Health and Environment Department;
- C. If applicable, the Licensing and Accreditation Division, Health and Environment Department; and
- D. If applicable, Food Quality Section, Environmental Improvement Division, Health and Environment Department;
- E. If applicable, the New Mexico Environment Department;
- F. If applicable, the Energy, Minerals, and Natural Resources Department

2.4.5 The Architect shall provide a signature-approval block on the front sheet of the drawings and specifications for

- A. User Agencies,

- B. the County Manager, and
- C. Utility companies (as appropriate).

Review and signatures of all shall be obtained by the Architect.

2.4.6 Only materials and systems available at the time of this Agreement or reasonably believed to become available prior to the expiration of the Construction Contract shall be specified in the Contract Documents. The Bidding Documents shall include a list of those items (or categories of items) for which shop drawings or submittals are required.

2.4.7 Any fees incurred in the preparation of the detailed cost estimate(s) provided by the Architect shall be paid by the Architect.

2.4.8 Project Wage Rate Determination: The Architect shall request from the state Labor and Industrial Division a minimum wage rate determination for the Project pursuant to Section 13-4-11, NMSA 1978. The Architect shall provide the Division a description of the Project, an estimate of construction cost, an approximate bid opening date, and any other pertinent information required by the Labor and Industrial Division. The Architect shall include the wage rate determination in the Bidding Documents.

2.5 BIDDING PHASE

2.5.1 The Architect, following the Owner's written approval of the Bidding Documents, shall assist the Owner in obtaining bids and in awarding and preparing contracts for construction. The finalized Invitation to Bid shall be prepared by the Owner and forwarded to the Architect for bidding purposes. The Owner shall issue a purchase requisition authorizing advertising for this Project.

2.5.2 The Architect shall provide sets of Bidding Documents as required to the Owner, sets as required by the reviewing agencies, and sets as appropriate to all prime Bidders requesting documents for bidding purposes. Prime Bidders shall be defined as General Contractors, major subcontractors as listed in the form; or other major suppliers.

2.5.2.1 The Architect shall provide an additional number of documents to be placed in plan rooms as well as in the Architect's office for review by prospective Bidders.

2.5.2.2 The Architect shall also make sets available to other prospective parties as requested. The Architect may charge the cost of reproduction to the party requesting the documents.

2.5.3 The Architect shall clarify and answer any questions about the Bidding Documents during the bidding process and shall issue Addenda as required to all Bidders, the Purchasing Office, the Owner, and the User(s).

2.6 CONSTRUCTION PHASE -- ADMINISTRATION OF THE CONSTRUCTION CONTRACT

2.6.1 The Construction Phase will commence with the award of the Contract for Construction and continues until the eleven-month inspection and report is submitted by the Architect and approved by the Owner.

2.6.2 The Architect shall provide administration of the construction contract as required and defined in the Conditions of the contract for Construction. The extent of the Architect's duties and responsibilities and the limitations of his authority thereunder shall not be modified without the Owner's written consent.

2.6.3 The Architect shall be the representative of the Owner during the Construction Phase and shall advise and consult the Owner. Instructions to the Contractor shall be forwarded only through the Architect. The Architect shall have authority to act on behalf of the Owner only to the extent provided in the Contract Documents and any amendments thereto.

2.6.4 The Architect shall at all times have access to the Work, whether it is in preparation or progress.

2.6.5 The Architect shall submit to the Owner, for approval, a list of critical inspection points based upon the construction schedule furnished by the Contractor. The Architect shall make periodic visits to the site at such other times as appropriate during the progress of the Work for the purposes of notifying the Owner on the progress and condition of the Work and to adequately represent the Owner. Additionally, the Architect shall familiarize himself with the progress and quality of the Work and determine if the Work is proceeding substantially in accordance with the Contract Documents. On the basis of on-site observations, the Architect shall guard the Owner against defects and deficiencies in the construction. Should the Architect determine that any portion of the Work varies from the requirements of the Contract Documents, he shall immediately notify the Contractor and the Owner of the nature of the work required to correct such non-compliance. In addition, the Architect shall, eleven months after substantial completion, schedule a meeting with the Owner and User and Project Engineers to evaluate the building and its operations; inspect architectural and engineering systems; and endeavor to discover defects in materials, equipment, and workmanship.

2.6.6 The Architect shall provide a minimum of weekly on-site inspections during the construction phase in an attempt to guard the Owner against defects and deficiencies in the construction, in addition to critical inspections and other inspections required by the progress of the Work. The results of all inspections shall be documented in field reports submitted to the Owner within seven days of each such inspection.

2.6.7 The Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, subcontractors, or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

2.6.8 The Architect shall determine, certify, and make recommendations to the Owner for payment of the amounts owing to the Contractor subject to the Owner's approval, based on observations at the site and on evaluations of the Contractor's Applications for Payment. The Architect shall issue Certificates for Payment in such approved amounts as provided in the Contract Documents.

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2.6.9 The issuance of a Certificate and recommendation for payment shall constitute representation by the Architect to the Owner, based on the Architect's observations at the site as provided in Subparagraph 2.6.5 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that the quality of the Work is substantially in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the

amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the Architect has made any examination to ascertain how and for what purpose the Contractor has used the money paid on account of the Contract Sum.

2.6.10 The Architect shall render interpretations of the documents necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Contractor, and shall render written decisions within a reasonable time on all claims, disputes, and other matters in questions between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

2.6.11 Interpretations and decisions of the Architect shall be consistent with the requirements and intent of the Contract Documents and shall be in written or graphic form.

2.6.12 The Architect's decisions in matters relating to artistic effect shall be final if consistent with the requirements of the Contract Documents.

2.6.13 The Architect shall have authority to reject Work which does not conform to the Contract Documents. Where rejected Work is not promptly corrected, the Architect shall recommend to the Owner that the Work shall stop. Whenever, in the Architect's professional opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed, or completed.

2.6.14 The Architect shall review the Contractor's submittals, such as shop drawings, product data, and samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents; and, for each submittal, the Architect shall designate in writing that the Architect

- A. Takes no exception to this submittal,
- B. Rejects the submittal,
- C. Requires corrections as noted by the Architect,
- D. Requires revisions and resubmitted to the Architect,
- E. Requires the Contractor to submit the specified item, or
- F. Approves as corrected.

Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

2.6.15 All Change Orders, defined in the Conditions of the Contract for Construction, shall be prepared by the Architect. Such Change Orders shall not become effective or binding on the Owner or Contractor until signed by the Owner and others whose signatures are required therein. The Change Order shall be initiated by the party requesting a change. Approval in writing by the Owner of a completed Change Order modifies this Contract to the extent indicated. No Work which could reasonably be expected to alter the contract price or materially alter the Project shall be undertaken until the Owner has approved a completed Change Order which outlines the desired change. Any deviation from the above shall be considered a material breach of this Contract. The Owner reserves the right to seek remedy from the Architect for Change Orders made necessary due to the Architect's errors and omissions.

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2.6.16 Upon prior notice to the Owner, the Architect shall conduct inspections to determine the Dates of Substantial Completion and Final Completion. The Architect shall obtain and forward to the Owner for the

Owner's review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall then issue a final Certificate for Payment.

2.6.17 The extent of the duties, responsibilities, and limitations of authority of the Architect as the Owner's representative during construction shall not be modified or extended without written consent of the Owner and the Architect.

2.6.18 Should the Architect, his staff, or his consultants direct the Contractor or his Subcontractors to undertake work for which additional compensation could reasonably be expected, and if such work is not

- A. An emergency endangering life and property,
- B. Required by the Contract Documents, or
- C. Required by approved Change Orders (signed by the Architect, the Owner, and the Contractor),

payment for such work, if accomplished without written authorization, shall not be borne by the Owner and shall constitute adequate grounds for dismissal or other action against the Architect.

2.6.19 As part of the Architect's Basic Services, the Architect shall modify the original reproducible drawings and the Project Manual, delineating recorded built conditions of the Project or record documents compiled from the records of the Contractor and the Architect, showing all changes in the Work. This set of Documents shall also include record documents showing actual location of all Work. The Architect shall provide two sets of the modified Documents to the Owner.

2.6.20 Record Drawings: Record drawing and documents are to be delivered to the Owner within 15 days following Substantial Completion of the project by the Architect. Record Drawings shall be produced by the Architect and shall consist of a set of reproducible drawing sheets, based on a Mylar format, specifications on 8 ½ x 11 in. paper and shall provide all the As-built conditions documented by the Contractor for the project. The Architect shall also provide to the Owner a set of PDF drawing files and CAD drawing files formatted on CD-ROM with file format to follow the standard utilized by the Owner at the time of this Agreement. The CD-ROM files shall duplicate the conditions documented on the Mylar Record Drawings. Further, the Architect shall deliver three (3) sets of the operations and maintenance manuals, hard copy and electronic; written warranties and related documents.

2.7 PROJECT CLOSEOUT AND 11 MONTH WARRANTY INSPECTION PHASE

2.7.1 Project closeout services will include one design process analysis meeting to assess implementation of sustainable design and construction requirements into the project and review any lessons learned from the overall efforts.

2.8 PROJECT REPRESENTATION BEYOND BASIC SERVICES

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2.8.1 Architect's Project Representative: If the Owner and the Architect agree that more extensive representation for inspection of the Site than that described in Subparagraph 2.6.5 shall be provided, the Architect shall, upon written authorization of the Owner, provide one or more Project Representatives to assist the Architect in carrying out such responsibilities at the site.

2.8.2 Subject to the Owner's approval, an Architect's Project Representative shall be selected, employed, and directed by the Architect. The Architect shall be compensated therefor as mutually agreed between the

Owner and the Architect as set forth in an approved amendment to this Agreement which shall, in addition, describe the duties, responsibilities, and limitations of authority of such Project Representative(s).

2.8.3 Through the inspections of such Project Representative(s), the Architect shall provide further protection for the Owner against defects and deficiencies in the Work to determine that the Work is carried out in conformance with the plans and specifications; but the furnishing of such project representation shall not diminish the rights, responsibilities, or obligations of the Architect as described in this Agreement.

2.8.4 The Owner reserves the right to designate an Owner Representative in lieu of an Architect's Project Representative to provide additional site representation for the Owner beyond that provided by the Architect. If the Owner elects to provide an Owner Representative in lieu of a Project Representative, this subsection shall not diminish the rights, responsibilities, or obligations of the Architect established in this Agreement. The Owner Representative's duties and limits of authority shall be established so as not to conflict with those of the Architect. The Architect shall cooperate with the Owner Representative in the performance of his duties.

2.8.5 The Owner reserves the right to employ an independent cost consultant to provide value and cost engineering services on the Project. If a cost consultant is retained, an amendment to this Agreement will be required identifying the duties and limits of authority of the cost consultant. The Architect shall cooperate with the cost consultant in the performance of the cost consultant's duties.

2.9 ADDITIONAL SERVICES

The following Services shall be provided when authorized in advance in writing by the Owner, and they shall be paid for by the Owner as provided in Paragraph 13.3.

2.9.1 Providing planning surveys, site evaluation, environmental impact studies, or comparative studies prospective sites other than those services required under Basic Services to provide a complete and operable facility.

2.9.2 Providing services related to future facilities, systems, and equipment which are not intended to be constructed during the Construction Phase.

2.9.3 Making revisions in drawings, specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously given and are due to causes beyond the control or not the responsibility of the Architect. This does not apply to revisions necessary for final approval of Programming, Schematic Design Studies and Statement of Project scope, and Design Development Documents, or to revisions necessary to bring the Project within the designated MACC. The Architect shall receive written authorization from the Owner before commencing work on any change or alteration to the Contract Documents.

2.9.4 Preparing drawings, specifications, and supporting data and providing other services in connection with Change Orders, provided that the adjustment in the Basic Compensation resulting from the adjusted Construction Cost is not for work which should have been provided pursuant to Basic Services and provided that such Change Orders are required because of causes not related to the actions or responsibilities of the Architect.

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2.9.5 Conducting investigations, surveys, valuations, inventories, or detailed appraisals of existing facilities when such work is not covered by this Agreement.

- 2.9.6 Providing consultation concerning replacement of any Work damaged by fire or other cause during construction and furnishing services as may be required in connection with the replacement of such Work.
- 2.9.7 Providing tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, test for air and water pollution, and tests for hazardous materials.
- 2.9.8 Providing financial feasibility or other special studies.

2.10 TIME

- 2.9.1 The Architect shall perform Basic and Additional Services as expeditiously as is consistent with professional skill and care and the orderly progress of the Work. The Architect shall submit, for the Owner's approval and as a part of this Contract, a schedule for the performance of the Architect's services and shall include allowances for periods of time required for the Owner's review and approval of submissions and for approvals of authorities having jurisdiction over the Project. This schedule, when approved by the Owner, shall not, except for reasonable cause not within the control of the Architect, be exceeded by the Architect. Failure of the Architect to perform within this schedule except through authorized extensions thereto shall constitute a basis for termination and/or withholding of payment until schedule compliance is achieved by the Architect.
- 2.10.2 Time of Essence: All time limits stated in this Agreement are of the essence in the performance of this Agreement.
- 2.10.3 Term: This Agreement shall terminate 48 months from the date of approval by the Owner unless terminated sooner pursuant to Article 10 of this Agreement.

ARTICLE 3
THE USER REPRESENTATIVE

- 3.0 The Owner may designate the designated department (if applicable) as a User, or User Agency. Such User, or User Agency, shall provide an individual User Representative to perform those functions required of the User Agency.
- 3.1 The User Representative(s) and the Owner shall provide the Architect with information required under Article 2 of this Agreement, as well as additional information required by the Architect for the purpose of defining the Scope of the Project and to assist the Architect and the Owner in the development and completion of the Project.
- 3.2 The User Representative(s) shall meet with the Architect and/or the Owner at times required by the Owner. The User Representative(s) shall respond to all inquiries submitted by the Architect and/or the Owner within any time limits set forth in the inquiry.
- 3.3 Information submitted directly by the User Representative(s) to the Architect is subject to subsequent approval by the Owner.

ARTICLE 4
OWNER'S RESPONSIBILITIES

- 4.1 The Owner may designate, in writing, a representative authorized to act in his behalf; however, authority for final approval of the Program Documents, the Contract Documents, or any Change Order is retained by the Owner. The Owner shall examine documents submitted by the Architect and shall render decisions promptly to avoid unreasonable delay in the progress of the Architect's services. The Owner, through the User Representative(s), shall provide information to the Architect regarding the User's requirements in the development of Program Documents for the Project.
- 4.2 The Owner shall furnish a legal description and a certified land survey of the site, giving, as applicable, grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and complete data pertaining to existing buildings, other improvements, and trees; and full information concerning available service and utility lines both public and private, above and below grade, including inverts and depths.
- 4.2.1 The Architect shall return all documents and drawings provided under Paragraph 4.2 to the Owner upon the Owner's request, but in no case later than when the Construction Documents Phase has been completed (see Section 2.4 herein). Payment for the Construction Documents Phase will not be made to the Architect until the Owner has received said documents and drawings.
- 4.2.2 The Owner reserves the right not to provide certain project- related documents or drawings to the Architect at the Owner's discretion.
- 4.3 If the Owner observes or otherwise becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents, prompt written notice thereof shall be given by the Owner to the Architect.
- 4.4 The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and of the Work.

ARTICLE 5
MAXIMUM ALLOWABLE CONSTRUCTION COST

- 5.1 **MAXIMUM ALLOWABLE CONSTRUCTION COST:** The Maximum Allowable Construction Cost (MACC) shall not exceed _____ Dollars (\$_____).
- 5.2 **RESPONSIBILITY FOR CONSTRUCTION COST**
- 5.2.1 Evaluations of the Owner's Project budget, statements of probable construction cost, and detailed estimates of construction cost prepared by the Architect represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that the Architect does not have control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Project budget proposed, established, or approved by the Owner, or from any Statement of Probable Construction Cost or other cost estimate or evaluation prepared by the Architect.
- BOOK 72 PAGE 820
- 5.2.2 The MACC is established, as a condition of this Agreement, as a fixed limit of Construction Cost for design and bidding purposes. The Architect shall be permitted to determine what materials, equipment,

component systems, and types of construction are to be included in the Bidding Documents to bring Construction Cost within the MACC. With the written consent of the Owner, the Architect may also include in the Bidding Documents either additive or deductive alternate bids to adjust the Construction Cost to the fixed limit.

5.2.3 If bidding or negotiations with potential contractors have not commenced within two months after the Architect submits Bidding Documents to the Owner, the Project budget and/or MACC shall be adjusted to reflect any change in the general level of prices in the construction industry between the date of submission of the Bidding Documents to the Owner and the date on which proposals are sought.

5.2.4 The MACC, therefore, is established as a condition of this Agreement. When it is exceeded by the lowest bona fide bid, the Owner may;

- A. Give written approval of an increase in the MACC,
- B. Authorize rebidding the Project within a reasonable time, or
- C. Cooperate with the Architect in revising the Project scope and, as required, reducing the Probable Construction Cost.

If the Owner elects to reduce the Probable Construction Cost, the Owner shall cooperate with the Architect in revising the quality and scope of the Project; and the Architect, without additional charge for services shall modify the Drawings and Specifications as necessary to bring the Construction Cost within the MACC. The Architect shall then assist the Owner through the Bidding process (see Subparagraph 2.5.1). When the detailed cost estimate required by Subparagraph 2.4.2 or an evaluation prepared by the Architect indicates that the Project exceeds the MACC, the provisions outlined in this paragraph shall apply.

ARTICLE 6
REIMBURSABLE EXPENSES

6.1 Reimbursable expenses are those above and beyond Basic Services compensation and are the actual expenditures made by the Architect or his employees in the interest of the Project. No expenses for which the Architect is entitled reimbursement shall be incurred by the Architect until written approval is given by the Owner, unless specifically allowed under Article 14 of this Agreement. Reimbursable expenses shall be limited to the following:

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6.1.1 Expenses of transportation when traveling in connection with the Project when specifically set out in Article 14. Such expenses are limited to per diem and mileage rates as set forth in the County's Per Diem and Mileage policy, except such travel shall be authorized in advance by the Owner.

6.1.2 Expense of fees paid for securing approvals of authorities having jurisdiction over the Project.

6.1.3 The Architect shall charge Bidders a deposit fee equal to the full cost of reproduction of drawings, specifications, and other documents required by the Owner to solicit bids and execute the Construction Contract. This fee shall be completely refunded if the documents are returned in usable condition within the time limits specified in the Invitation to Bid. All forfeited fees shall be returned to the Owner.

6.2 Construction documents and specifications will be printed under the terms of a contract between the Owner and the current Vendor on contract. All reproduction required must be approved in writing by the Owner prior to request. This expense shall be paid by the Owner for the initial Bidding and by the

Architect for subsequent Biddings (see subparagraph 5.2.4). All other reproductions as may be required for the Owner's review or for the office use of the Architect and the Architect's consultants shall be provided as part of the Architect's Basic Compensation.

6.3 Applicable gross receipts taxes on reimbursable expenses or additional services received by the Architect under the provisions of this Contract. **The Architect shall use and require the use of tax exempt certificates by Consultants and Suppliers whenever allowed by law.** In any event, the Architect shall not include taxes paid as a part of the base dollar amount upon which taxes are calculated. Payment pursuant to this provision does include payment for gross receipts taxes pursuant to Subparagraph 13.1.1.

ARTICLE 7
PAYMENTS TO THE ARCHITECT

7.1 PAYMENTS ON ACCOUNT OF BASIC SERVICES

7.1.1 Payments for Basic Services shall be made monthly and shall be in proportion to services performed within each phase of services, on the basis set forth in Article 13.

7.1.2 When portions of the Project are deleted or otherwise not constructed, compensation for such portions of the Project shall be payable to the extent services are performed on such portions, in accordance with the schedule set forth in Subparagraph 13.1.2, based on

- A. The lowest bona fide bid or negotiated proposal, or
- B. If no such bid or proposal is received, the most recent Statement of Probable Construction Cost or detailed estimate of Construction Cost for such portions of the Project.

7.2 PAYMENT FOR SERVICES AND COSTS

7.2.1 The Architect shall submit monthly, as necessary, a fully completed request for payment for all services and costs on a form delineating each phase of work and contracted amount for each phase showing the percentage of work completed to date and amount due and owing.

7.2.2 The Architect shall submit, with his billings at the completion of the Project, certification that payment has been made to all consultants, suppliers, and others for materials and services required by this Agreement.

7.3 PAYMENTS WITHHELD

7.3.1 No deductions or withholdings shall be made from the Architect's compensation on account of penalty, liquidated damages, or other sums withheld from payments to Contractors, or on account of the cost of changes in the Work other than those for which the Architect may be legally liable and as required in Paragraph 2.9.

7.4 PROJECT SUSPENSION OR TERMINATION - OTHER PARTIES

7.4.1 In the event of termination or suspension of the Project due to the fault of parties other than the Architect, the Architect shall be compensated for services performed to termination date pursuant to Article 10.

ARTICLE 8 ARCHITECT'S RECORDS AND AUDIT

8.1 Records of expenses by the Architect and his consultants pertaining to all services under this Agreement shall be kept on the basis of generally accepted accounting principles and shall be available at mutually convenient times to the Owner or the Owner's authorized representative. The Owner shall have the right to audit all such records and billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Owner to recover excessive or illegal payments.

8.2 Records of expenses shall be kept by the Architect and his consultants and shall be available to the Owner until all applicable statutes of limitations have run, and this provision shall survive and continue beyond the termination of other terms of this Agreement.

8.3 These records shall be subject to inspection by the Owner; the Owner's auditor and funding agency, if applicable, and shall be maintained for inspection for a minimum period of three years. Billings may be audited both before and after payment; and payment by the Owner under this Agreement shall not foreclose the right of the Owner to recover excessive or illegal payments.

ARTICLE 9 OWNERSHIP AND USE OF DOCUMENTS

9.1 Original construction document drawings, designs, specifications, notes, project manuals, and/or related documents and other work developed in the performance of this Agreement by the Architect shall become the sole property of the Owner whether the Project for which they are made is constructed or not, pursuant to Section 13-1-123, NMSA 1978. These documents shall be kept on file by the Owner. The Architect may maintain a complete reproducible set of any and all record documents developed under this Agreement.

9.2 All documents, including drawings and specifications prepared by the Architect pursuant to this Agreement are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by the Owner on any other project.

9.3 The original drawings may be marked by the Owner or the Architect to designate the restrictions of use of these documents as set forth in Paragraph 9.2.

9.4 Copyright: No reports, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Architect.

9.5 The Owner agrees to hold the Architect harmless for damages arising from the use of drawings, specifications, and other work developed in the performance of this Agreement, and the Project included therein, when such drawings, specifications, and other work are used for purposes other than as base documents for subsequent additions, remodeling, or alterations to the Project. This section shall not apply in instances where the Architect is retained as the Architect of Record on any such subsequent project using the same drawings, specifications, and other work product from the Project which is the subject of this Agreement.

ARTICLE 10 TERMINATION OF AGREEMENT

10.1 If either party should fail to fulfill in a timely and appropriate manner his obligations under this Agreement, or if either party should violate any of the covenants, agreements, or stipulations of this Agreement, the non-breaching party, in addition to remedies available under the terms of this Agreement, shall thereupon have the right to terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof at least five days before the effective date of such termination. The Architect shall be responsible for all consequential costs which may arise out of failure to complete the services in accordance with the schedule attached as Exhibit A.

10.2 In the event that the Project is abandoned by the Owner, the Owner may terminate this Agreement at any time by giving at least seven days' notice in writing to the Architect.

10.3 In the event of termination, all finished or unfinished documents, data, sketches, calculations, estimates, records, schedules, studies, surveys, drawings, maps, models, photographs, reports, and such other information and data accumulated in the performance of services under this Agreement, whether complete or in progress, prepared by the Architect under this Agreement shall become the Owner's property, and the Architect shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expenses authorized by the Owner which are then due.

10.4 Termination: This Agreement may be terminated by either of the parties hereto without cause upon written notice delivered to the other party at least 30 days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

ARTICLE 11 GENERAL AND SPECIAL PROVISIONS

11.1 This Agreement shall be governed exclusively by the provisions hereof and by the laws of the state of New Mexico as the same from time to time exist.

11.2 Unless expressly provided otherwise, terms in this Agreement shall have the same meaning as those in the Conditions of the Contract for Construction, as provided in – Bidding and Contract Requirements on file with the Owner.

11.3 As between the parties to this Agreement: As to all acts or failures to act by either party to this Agreement, any applicable failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the relevant Date of Substantial Completion of the Work, and as to any acts or failures to act occurring after the relevant Date of Substantial Completion, not later than the date of the Owner's approval of the Final Certificate of Payment.

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11.4 The Owner and the Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages covered and paid by any property insurance during construction as set forth in Division – Bidding and Contract Requirements on file with the Owner. The Owner and the Architect each shall require appropriate similar waivers from their contractors, consultants, and agents.

11.5 The Architect shall hold harmless and indemnify the Owner against any and all injury, loss, or damage, including cost of defense - including but not limited to court costs and attorney's fees - arising out of the negligent acts, errors, or omissions of the Architect.

11.6 This Agreement shall not become effective until:

A. Approved by motion and vote the Owner's governing body at a duly published meeting, the finance officer of the Owner for compliance with the financial requirements of the legislation or funding source authorizing the Project and compliance with the requirements of all other legislation pertaining to the expenditures of public funds; and

B. Signed by all parties required to sign this Agreement.

11.7 The Architect and his agents and employees are independent contractors performing professional and technical services for the Owner and are not employees of the Owner. The Architect and his agents and employees shall not as a result of this Agreement accrue leave, retirement, insurance, bonding, use of Owner vehicles, or any other benefits afforded to employees of the Owner.

11.8 The Architect's design shall be in compliance with all federal, state, and local codes and laws related to the Work, including but not limited to provisions of the Civil Rights Act of 1964 and Executive Order 11246, Title VI, Sections 3 and 109; the minimum handicapped accessibility as required by Section 60-13-44D, NMSA 1978; Section 306, New Mexico Uniform Building Code, which adopts ANSI A117.1, 1980; and parking requirements as required by Section 15-3-19, NMSA 1978. In all cases, the more restrictive code or statute adopted by the Construction Industries Division of the Regulation and Licensing Department shall govern.

11.9 The Architect shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written consent of the Owner.

11.10 Whenever the Architect contracts for an additional Project Representative to be on the Project or enters into a joint venture to share the duties and responsibilities of the Architect under this Agreement, all such agreements require prior Owner approval and must outline the duties and responsibilities of the Architect and his representative, or joint venturer, or consultant; and a copy of such approved agreement shall be filed with the Owner. Such agreements shall be amendments to this Agreement.

11.11 The Architect, upon final payment of the amounts due under this Agreement, releases the Owner, his officers and employees from his liabilities and obligations arising from or under this Agreement, including, but not limited to, all damages, losses, costs, liability, and expenses, including but not limited to attorney's fees and costs of litigation that the Architect may incur.

11.12 The Architect agrees not to purport to bind the Owner to any obligation not assumed herein by the Owner, unless the Architect has express written authority to do so, and then only within the strict limits of that authority.

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11.13 The Architect warrants that he currently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Architect further covenants that, in the performance of this Agreement, no person having any such interest shall be employed by the Architect. The Architect also agrees that neither he nor anyone employed by him shall have an interest, direct or indirect, in any company hired for the Project as

Contractor, subcontractor, or supplier, except when the Project is a design-build project and/or the Owner provides inspections independent of the Architect.

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

11.15 The Architect shall obtain professional liability insurance and provide a certificate of coverage on the form designated herein as Exhibit B. Such insurance coverage shall be maintained in full force and effect at all times during the performance of Project services and for a period thereafter of not less than three years following Substantial Completion of the Work. Fees for such insurance shall be at the Architect's expense and of the following limits of liability:

11.15.1 Professional liability insurance, per occurrence and in the aggregate, of \$1,000,000, unless as otherwise provided in Article 14. Proof of compliance with this section shall be provided by the Architect to the Owner in each year insurance is required.

11.16 A potential contractor or the Contractor agrees to comply with state laws and rules pertaining to workers' compensation insurance coverage for its employees. If contractor fails to comply with the Workers' Compensation Act and application rules when required to do so, the contract may be cancelled effective immediately.

11.17 No work requiring the approval of the Owner shall be undertaken until the Owner's written approval has been requested and obtained. Any deviation from this requirement shall be considered a material breach of this Agreement and grounds for termination.

11.18 In the event that the Architect subcontracts out any portion of his duties or responsibilities under this Agreement, or if the Architect hires consultants to assist him with his duties or responsibilities under this Agreement, the Architect shall require that all terms of this Agreement applicable to the consultant, subcontractor, or joint venturer shall be incorporated into any contract or agreement entered into with such consultant, subcontractor, or joint venturer.

11.19 Notices. All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage prepaid - in the instance of notice of termination of work also by certified mail, and addressed as follows:

OWNER: County of Valencia
Attn: Eric Zamora, Manager
P. O. Box 1119
Los Lunas, NM 87031
Telephone: (505) 866-2014
Fax: (505) 866-3355

ARCHITECT:

Project No. _____

PROFESSIONAL SERVICES AGREEMENT SIGNATURE PAGE

Contract No. _____

REVIEWED AS TO BUDGETARY SUFFICIENCY



Finance Officer

By: _____ Date: _____
☐ Approved ☐ Disapproved

REVIEWED AS TO LEGAL FORM AND SUFFICIENCY

Legal Counsel

By: _____ Date: _____
☐ Approved ☐ Disapproved

AGREED

ARCHITECT:

By: _____ Date: _____

NM Seal and Certificate Number: _____

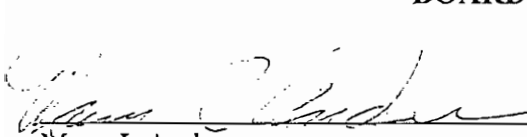
NM Tax ID N^o. _____ Federal ID N^o. _____

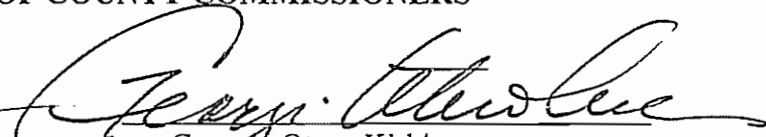
APPROVED


OWNER:

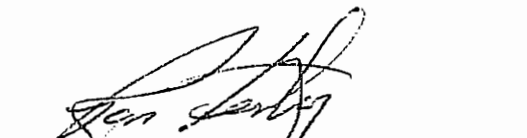
DATE: February 1, 2012

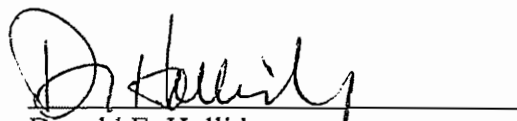
BOARD OF COUNTY COMMISSIONERS

 _____
Mary J. Andersen
Commissioner, District I

 _____
Georgia Otero-Kirkham
Commissioner, District II

 _____
Lawrence R. Romero
Commissioner, District III

 _____
Ron Gentry
Commissioner, District IV

 _____
Donald E. Holliday
Commissioner, District V

Attest:

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Sally Perea, County Clerk

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices shall be mailed to either party may be changed by written notice given by such party to the other as herein above provided.

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

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

11.22 Labor-Management Relations. During the entire term of this Agreement, the Architect shall take good-faith steps necessary to further satisfactory labor-management relations to the end that the operations of the Architect and of the Owner shall not be affected by strikes, picketing, boycotts, or other labor activities.

11.23 This document may be executed in counterparts, each of which shall be deemed an original.

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

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

11.26 Waiver. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver be in writing signed by the party making the waiver and addressed to the other party; nor shall any custom or practice which may evolve between the parties in the administration of the terms hereof be construed to waive or lessen the right of either party to insist upon performance by the other party in strict accordance with the terms hereof. Further, the waiver by any party of a breach by the other party or any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

11.27 Mergers, Dissolution, Successors, and Assigns. The Architect agrees that during the term hereof it will maintain its existing business structure, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another business structure or permit one or more other business structures to consolidate or merge into it, unless the surviving, resulting, or transferred business structure, as the case may be,

A. Assumes, is capable of, and agrees in writing to perform all of the obligations of the Architect hereunder;

B. Qualifies to do business in the State of New Mexico, including providing a legal resident registered architect of New Mexico as Project Architect; and

C. The Owner approves the firm or individual architect, or new architect, if any, who is to proceed.

The terms and provisions hereof shall extend to, be binding upon, and inure to the benefit of the successors and assigns of the respective parties hereto.

11.28 The Owner shall have sole discretion to determine whether or not the Project Architect or the firm named as Architect in this Agreement shall continue to have all contract rights under this Agreement and continue to represent the Owner under this Agreement in all instances where the Project Architect ceases to be associated with the firm named in this Agreement.

11.29 Entire Agreement. This Agreement represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this Agreement, and all such conditions, understandings, and agreements have been merged into this written Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

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

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

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

11.33 Exhibits and Attachments Incorporated by Reference. All exhibits, attachments, riders, and addenda referred to in this Agreement, including but not limited to the exhibits referred to in this Agreement, as well as those listed in Paragraph 11.33 below, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

11.34 The following exhibits if attached are made a part of this Agreement:

- Exhibit A - Time Schedule for Project Phases
- Exhibit B - Architect's Errors and Omissions Insurance Certificate
- Exhibit C - List of Consultants
- Exhibit E- Architect Additional Services Proposal/Amendment Form
- Exhibit F- Architect Pay Request Form
- Exhibit G- Boiler Bidding Documents and Conditions of the Contract for Construction

11.35 Equal Opportunity Compliance: The Architect agrees to abide by all federal and state laws, rules and regulations and executive orders of the Governor of New Mexico pertaining to equal employment opportunity or deny from participation in, deny the benefits of or otherwise subject to discrimination under any activity performed under this Agreement any person on the grounds of race, color, religion, national origin, sex, sexual preference, age or disability. If the Architect or any subcontractor is found not to be in compliance with these requirements during the term of this Agreement, the Architect agrees to take appropriate steps to correct these deficiencies.

ARTICLE 12
MAINTENANCE

12.1 Ease of maintenance and the ability to repair major items of installed equipment by replacement are essential to the Project. To ensure that these services can be adequately performed after the Project is accepted by the Owner, the Architect shall:

12.1.1 In all relevant Contract Documents, design and provide for all major installed equipment in the Project, including but not limited to removal, access, maintenance, and storage space needs. In addition, all installed equipment systems shall be appropriately identified and labeled to describe the capacities, flows, and other pertinent information related to their maintenance and safe operation;

12.1.2 Specify only equipment that can be readily maintained by the User or other qualified commercial repairmen who are proximate to the location of the Project;

12.1.3 Provide Construction Documents that accurately depict the installation of all major items of installed equipment and which provide reasonable detail on all other major systems to be installed; and

12.1.4 At the completion of the Schematic, Design Development, and Contract Documents Phases, brief the Owner and the User Representative on the rationale for the selection of the major mechanical and electrical systems to be specified in the Contract Documents, together with their probable life-cycle costs.

ARTICLE 13
BASIS OF COMPENSATION

13.0 BASIC COMPENSATION

13.1 FOR BASIC SERVICES, as described in Paragraphs 2.0 through 2.6, and any other services included in Article 14 as part of Basic Services, compensation shall be computed as follows:

On the Basis of a Fixed Fee of	\$ 16,300.00
Additional Services	\$
Consultant Services	\$ 15,040.00
Plus all applicable gross receipts taxes @ 7.0 %	\$ 2,193.80
Total Basic Compensation	\$ 33,533.80
Total Reimbursable	\$ 0
Total Contract Sum (Phase, if applicable)	\$ 33,533.80

12.1.2 Payments for Basic Services shall be made monthly in proportion to services performed so that the compensation at the completion of each phase, except when the compensation is on the basis of a Multiple of Direct Personnel Expense, shall equal the following percentages of the total Basic Compensation:

Programming Phase	\$		
Schematic Phase	\$		
Design Development Phase	\$		
Construction Document Phase	\$	22,733.80	
Bidding or Negotiation	\$	2,000.00	
Construction Administration	\$	7,800.00	
Acceptance of project, Release of Liens, and Approval by Owner of	\$	500.00	
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As-Built Drawings required by Article 9		
Inspection and Report 11 Months After Substantial Completion	\$	500.00
Sub-total basic compensation		
Total Reimbursable Allowed by Article 14	\$	0
Total Contract Amount	\$	33,533.80

13.2 FOR PROJECT REPRESENTATION BEYOND BASIC SERVICES, as described in Paragraph 2.7, compensation shall be computed separately in accordance with Subparagraph 2.7.2.

13.3 COMPENSATION FOR ADDITIONAL SERVICES

13.3.1 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Paragraph 2.8, and any other services included in Article 14 as part of Additional Services, but excluding additional services of consultants, compensation shall be a negotiated lump sum.

13.3.2 FOR ADDITIONAL SERVICES OF CONSULTANTS, including but not limited to the additional structural, mechanical, and electrical engineering services, a multiple of 1.10 times the amounts billed to the Architect for such services. The Architect shall provide the Owner with hourly rates for his consultants and their employees detailed by professional levels.

13.4 FOR REIMBURSABLE EXPENSES, if allowed, as described in this Agreement at cost.

13.5 Maximum amount to be paid for the duration of this Contract shall not exceed the “Total Contract Sum” indicated for Phase I including, but not limited to, total compensation, reimbursable and gross receipts taxes, as per Section 13 of this Contract. The contract sum for Phase II will be authorized by an Amendment to this Agreement.

ARTICLE 14
OTHER CONDITIONS OR SERVICES

14.1 All reimbursable expenses (\$ ____ 0 ____). Reimbursable expenses shall include: geotechnical investigation, site survey, site topography, soil testing, and other project related work shall be payable from the reimbursable expenses. No cost shall be incurred by the Architect until a written proposal for each part is submitted and approved by the Owner.

14.2 Role of Architect and Project Architect: The Project Architect will supervise the architectural design for the project and will affix his seal to the architectural drawings. The Architect will be responsible for the engineering design and production, as well as the architectural production and construction administration services as outlined in Article 2.

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14.3 The Owner agrees not to use any plans related to this project for any other purpose without the express written permission of the Architect.

14.4 For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Architect agrees

these requirements shall apply the first day of the second month after the offeror reports combined sales (from state, and if applicable, from local public bodies if from as state price agreement) of \$250,000, \$500,000 or \$ 1,000,000, depending on the dollar value threshold in effect at that time.

14.5 REIMBURSABLE COST – The total reimbursable cost shall be \$ __0__ for project bid set reproductions, surveying, testing or excessive travel requirement beyond those included in basic services, which shall be determined herein prior to execution of this contract or any other project related expenses per Article 6. The Architect shall incur no cost until a written proposal of work for each part is submitted and approved by the Owner’s Representative.

14.6 ELECTRONIC PROJECT SCHEDULING: The Project Architect shall provide and update a detailed project schedule in the current version of Microsoft Project software, to the Project Manager on a minimum of a bi-monthly basis.

Jully Eke C.

2012-1278

Valencia Countywide Senior Centers

STATE OF NEW MEXICO
AGING AND LONG-TERM SERVICES DEPARTMENT
FUND STB CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into as of this 8th day of February, 2012, by and between the Aging and Long-Term Services Department, New Mexico, hereinafter called the "Department" or abbreviation such as "ALTSD", and Valencia County, hereinafter called the "Grantee". The Effective Date of this Agreement is the date of last signature by both the Department and the Grantee.

RECITALS

WHEREAS, in the Laws of 2011, Chapter 5, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement.

WHEREAS, State Agency on Aging (28-4-1 to 28-4-9 NMSA 1978: successor agency), Aging and Long-Term Services Department (9-23-1 to 9-23-12 NMSA 1978) and the Older Americans Act, as amended 1965, may enter into grants and contracts as appropriated by law.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

(11-1278) \$161,000 Valencia Countywide Senior Centers
APPROPRIATION REVERSION DATE: 6/30/2014

Laws of 2011, Chapter 5, Section 4, Paragraph 48, one hundred sixty-one thousand dollars (\$161,000), to the Valencia Countywide Senior Centers to purchase and equip vehicles for senior centers countywide in Valencia county.

The Grantee's total reimbursements shall not exceed the appropriation amount one hundred sixty-one thousand dollars (\$161,000) minus the allocation for Art in Public

(EXHBIT F)

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Places¹, if applicable, (\$) which equals [one hundred sixty-one thousand dollars (\$161,000)], hereinafter referred to as "Adjusted Appropriation Amount."

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited herein Article I. A., the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I. A. is referred to collectively throughout the remainder of this Agreement as the "Project Description - Valencia Countywide Senior Centers to purchase and equip vehicles for senior centers countywide in Valencia county. The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, requests for payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse² Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

- (i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and
- (ii) The total amount received by the Grantee shall not exceed the lesser of: (a.) The Adjusted Appropriation Amount identified in Article I. A., herein or (b.) The total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s); and
- (iii) The Grantee's expenditures were made pursuant to the Grantee's legal procurement and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

¹ The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars (\$200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars (\$100,000)." See, Section 13-4A-4 NMSA 1978.

² "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

- (iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth Article IX. herein; and
- (v) The Grantee's submittal of documentation of all Third Party Obligations and amendments thereto (including terminations), to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement as follows:
 - a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations), as soon as possible after execution by the Third Party but prior to execution by the Grantee.
 - b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such expenditures.
 - c. The Department may, in its absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date.
 - d. The date the Department sends, by mail or email, the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party begin work.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee and the Department hereby designate the persons listed below as their official representative concerning all matters related to this Agreement:

Grantee: Valencia County

Name: Doreen Kelley

Title: Chairman

P.O. Box 1119

Los Lunas New Mexico 87031

Email: _____

Telephone: _____

FAX: _____

Department: **AGING AND LONG-TERM SERVICES DEPARTMENT**

Address: **2550 CERRILLOS ROAD
TONEY ANAYA BUILDING
SANTA FE, NM 87505**

Telephone: **(505) 476-4799**

FAX: **(505) 476-4836**

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by facsimile, email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email. In the event the designated representative is required to be changed or updated, the Department shall be informed of the new Grantee representative in writing.

ARTICLE IV. REVERSION DATE, TERM, EARLY TERMINATION

A. As referenced in Article I. A., the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on 6/30/2014 the Reversion Date unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V. herein.

B. The Project's funds must be "expended" on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to "encumber" the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are "expended" and an "expenditure" has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are *not* "expended" and an "expenditure" has *not* occurred as of the date they are "encumbered" by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

- (i) Termination due to completion of the Project before the Reversion Date; or
- (ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or
- (iii) Termination for violation of the terms of this Agreement; or
- (iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V. A.

B. Early Termination Before Reversion Date Due to Non-appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to Article I. and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V.B.

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its absolute discretion, to direct the Grantee to suspend entering into new and further obligations.

- (i) The Grantee shall immediately suspend entering into new or further written obligations with third parties upon the date the Grantee receives written notice given by the Department; and
- (ii) The Department is, upon the date the Grantee receives written notice given by the Department, suspending issuance of any new or further Notice of Obligation under this Agreement; and
- (iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI. D. herein.

B. In the event of Suspension of this Agreement, the Department's sole obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II, herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V. herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI.A., the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V. A. (iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

A. This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Paper Periodic Reports

In order that the Department may adequately monitor Project activity, the Grantee shall submit to the Department Paper Periodic Reports for the Project. Paper Periodic Reports shall be submitted on a form prescribed by the Department. The Paper Periodic and Paper Final Report form are attached hereto as Exhibit 1. The Department shall provide the Grantee with a minimum of thirty (30) days advance written notice of any change to the Periodic Report format or content.

The Paper Periodic Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Paper Final Report for the Project. The Department may, in its discretion, change the reporting period from time to time by giving Grantee a minimum of thirty (30) days advance, written notice of any change to the reporting period; provided, however, that in no event shall the reporting period be less than one month.

B. Paper Final Report

The Grantee shall submit to the Department and the Department of Finance and Administration a Final Report for the Project. The Final Report shall be submitted on a form provided by the Department and contain such information as the Department may require. The Periodic and Final Report form is attached hereto as Exhibit 1. The Department shall provide Grantee with a minimum of thirty (30) days advance, written notice of any change to the Final Report format or content. The Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, whichever ever first occurs.

C. Paperless Reporting

In lieu of the paper reports described in subparagraphs A and B of this Article, the Department may, in its discretion, require Grantee to report periodic and final Project activity by entering such Project information as the Department and the Department of Finance and Administration may require directly into a database maintained by the Department of Finance and Administration. The Department shall give Grantee a minimum of thirty (30) days advance, written notice of the switch to or from paperless reporting. The Department shall also give Grantee a minimum of thirty (30) days advance written notice of any changes to the information the Grantee is required to report on a paperless basis. The Paperless Report shall be due monthly on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of a Final Report for the Project. The Paperless Final Report along with a Paper Final Report must be submitted within twenty (20) days after the Project's Reversion Date or within twenty (20) days of the date of Early Termination, whichever ever first occurs.

D. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII., the Department may (i) request such additional information regarding the Project as it deems necessary and (ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department. Requests made pursuant to this subparagraph D are in addition to and not in lieu of the periodic and final reporting described in subparagraphs A through C of this article.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 2. Payment requests are subject to the following procedures:

- (i) The Grantee must submit one original and one copy of each Request; and
- (ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee in the form of a notarized certification by Grantee's designated representative in Article III. herein, that the expenditures are valid or are liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee of services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project.
- (iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within 15 calendar days from the date of cashing or depositing of the State warrant.

B. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

- (i) Twenty (20) days from the end of the calendar quarter in which the expenditure was incurred or liability of the Grantee was incurred as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor, if total unreimbursed expenditures or liabilities at calendar quarter end exceed \$25,000; or
- (ii) Twenty (20) days from date of Early Termination; or
- (iii) Twenty (20) days from the Reversion Date.

C. The Grantee's failure to abide by the requirements set forth in Article II. herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II. herein to provide Third Party Obligations. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS;
REPRESENTATIONS AND WARRANTIES

A. The Grantee hereby represents and warrants that all of the following general conditions and restrictions are applicable to the Project:

- (i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the Procurement Code (or local procurement ordinance, where applicable).
- (ii) The Grantee insures compliance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978. Every contract or project in excess of sixty thousand dollars (\$60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B. NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.
- (iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, the so-called "Anti-Donation Clause."
- (iv) The Grantee shall not at any time convert any property acquired or developed with the Project's funds to uses other than those specified in the Project Description without the Department's express, advance, and written approval.
- (v) The Grantee has the legal authority to receive and expend the Project's funds.
- (vi) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.
- (vii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the

Grantee's charter (if applicable), or any judgment or decree to which it is subject.

- (viii) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.
- (ix) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.
- (x) The Grantee shall abide by New Mexico laws regarding Conflict of Interest and Governmental Conduct and federal whistleblower laws. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.
- (xi) The Grantee certifies, to the best of its knowledge and belief, no funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.
- (xii) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.
- (xiii) If this Agreement is for equipment for a senior center or senior services, the Grantee shall be responsible for adhering to the policy on Management and Disposition of Tangible Property provided by the Department if such equipment is no longer usable for its intended purpose.
- (xiv) If this Agreement is for a vehicle or vehicle purchase, the Grantee agrees that the vehicle(s) shall be used for transportation services for senior

citizens and persons with disabilities and in accordance with the appropriation law set forth in this Agreement. When the vehicle(s) are no longer used or needed for its intended purpose and prior to the vehicle(s) disposition, the contractor shall notify the Department and obtain the Department's instructions as to the disposition of the vehicle, including the title of the vehicle. After the Department approves the proposed disposition, the Grantee shall give notification to the State Auditor and the Department at least thirty (30) days prior to its action in making the deletion from its public inventory. In addition, if the Grantee receives any proceeds from the sale of the vehicle(s) all proceeds shall be retained by the senior programs. The Grantee agrees to retain a record of the sale for a minimum of three years.

- (xv) If this Agreement is for improvement or renovation projects, 10%, the Grantee shall not enter into any agreement with architects or engineers, wherein the fee would be in excess of 10% of the amount awarded herein.
- (xvi) If this Agreement is for renovation or improvements of an existing senior center building, the Grantee shall ensure for a period of five (5) years from the date hereof, Valencia Countywide Senior Centers shall be used solely for the purpose of senior citizens and not for any other purpose whatsoever. The Valencia Countywide Senior Centers shall not be closed, subleased, or disposed of without the written prior consent of the Department.
- (xvii) If this Agreement is for construction of a new building as a senior center, the Grantee shall ensure for a period of twenty (20) years from the date hereof, Valencia Countywide Senior Centers shall be used solely for the purpose of senior citizens and not for any other purpose whatsoever. The Valencia Countywide Senior Centers shall not be closed, subleased, or disposed of without the written prior consent of the Department.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of six (6) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

C. The Grantee shall make all Project records available to the Department of Finance and Administration and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part of all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

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 immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and DFA concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Valencia County may immediately terminate this Agreement by giving Grantee written notice of such termination. The Valencia County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the Valencia County or the ALTSD or the State of New Mexico in the event of

immediate or Early Termination of this Agreement by the Valencia County or the Department”

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

“This contract is funded in whole or in part by funds made available under a ALTSD Grant Agreement. Should the ALTSD early terminate the grant agreement, the ALTSD may early terminate this contract by providing contractor written notice of such termination. In the event of termination pursuant to this paragraph, the ALTSD only liability shall be to pay contractor or vendor for acceptable goods delivered and services rendered before the termination date.”

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XIX. BOND PROJECT CLAUSES


A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond, which is administered by the New Mexico State Board of Finance (BOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) the Department’s failure to inform Grantee of a BOF imposed condition does not affect the validity or enforceability of the condition; (ii) the BOF may in the future impose further or different conditions upon the Project; (iii) all BOF conditions are effective without amendment of this Agreement; (iv) all applicable BOF conditions must be satisfied before the BOF will release to the Department funds subject to the condition(s); (v) the Department’s obligation to reimburse Grantee from the Project is contingent upon the then current BOF conditions being satisfied; and (vi) all applicable BOF conditions must be satisfied prior to the Project’s Reversion Date.

B. Grantee acknowledges and agrees that this Agreement is subject to the BOF’s Bond Project Disbursements rule, 2.61.6 NMAC, as such may be amended or re-codified

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IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date of execution by the Department.

VALENCIA COUNTY

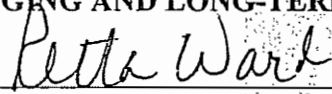

Signature of Official with Authority to Bind Grantee

By: Donald Corridan
(Type or Print Name)

Its: Chair
(Type or Print Title)

2-1-2012
Date

AGING AND LONG-TERM SERVICES DEPARTMENT


By:

2/8/12
Date



Susana Martinez, Governor
Reta Ward, Secretary

FROM THE DESK OF

DE ALVA CALABAZA, Capital Projects Coordinator
NM Aging and Long-Term Services Department
2550 Cerrillos Road
Santa Fe, New Mexico 87505

ROUTING AND TRANSMITTAL SLIP

To: Jose Campos, Valencia County Senior Programs

- ☐ For Approval ☐ For Signature
☐ For Your Files ☐ For Your Review
☒ X Enclosed fully executed Grant Agreements(s). 2012-1278
☐ Enclosed fully executed contract amendment.
☐ Enclosed are capital outlay draw request instructions.
☐ As requested

***PLEASE NOTE: FUNDS SHOULD BE EXPENDED TIMELY.**
Please refer to the grant agreement language.

REMARKS:

If you have any questions, please contact me at 476-4876.



De Alva Calabaza

02/10/12

Date



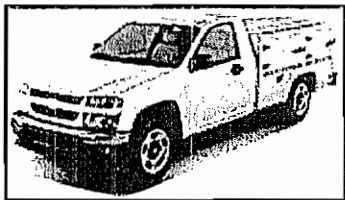
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- [Resources](#)
- [Vendor Log-in](#)
- [Catering](#)

6 Series

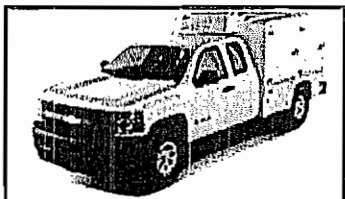


2

7 Series LP



8 Series



11 Series



Ford Transit Connect ADA Mobility Van

The Ford Transit Connect is the latest rear-entry consumer wheelchair van offering from Nor-Cal Vans. Economically priced, the Transit Connect provides a whole new option for wheelchair van passengers and caregivers. Its excellent maneuverability and ample interior space may be just what you're looking for in today's accessible van market. The Transit Connect is a front-wheel drive vehicle. It has sliding side doors in the rear two rear folding doors.

Transit Connect XLT Premium Wagon Standard Features

- Power Windows, Locks and Power Adjustable, Heated Sideview Mirrors
- Cloth Interior
- Folding 2nd Row, 60/40 Split 3-Passenger Seating
- Cargo Side and Rear Privacy Glass
- 2.0 L DOHC 136 HP Engine
- 4-Speed Automatic Transmission
- Advance Trac with RSC (Roll Stability Control)
- P205/65R15 Tires w/Spare
- Cruise Control
- AM/FM Stereo w/Single-CD and Audio Input Jack
- Front Disc/Rear Drum Brakes with Anti-Lock Braking System (ABS)
- 15.4 Gallon Capacity Fuel Tank
- Flip-open 3rd Row Windows
- 22 mpg city and 26 mpg highway

Nor-Cal Vans Conversion Standard Features

- Rear-Entry Lowered Floor
- Manual Folding Ramp (600 lbs. capacity)
- Transit flooring
- Retractable Q'straint wheelchair

Nor-Cal Vans is proud to announce one of its newest offerings, the Ford Transit Connect ADA Mobility Van. Developed in conjunction with Ford Motor Company, the Transit Connect offers an ADA Compliant rear entry option for taxi companies, clinics, nursing homes, assisted living and any other business that transports wheelchair passengers. The Transit Connect is economical and practical.



With the rear tumble seat folded forward, the vehicle's design provides a wheelchair area of 31" wide x 50" in length. With the rear seat in its deployed position, three full-sized adults can be transported in the rear seating area, along with the driver and another passenger in the front. This new design combines the flexibility of a rear entry transport van for handicap passengers with non-wheelchair passenger capabilities, transitioning from one use to the other in less than a minute.

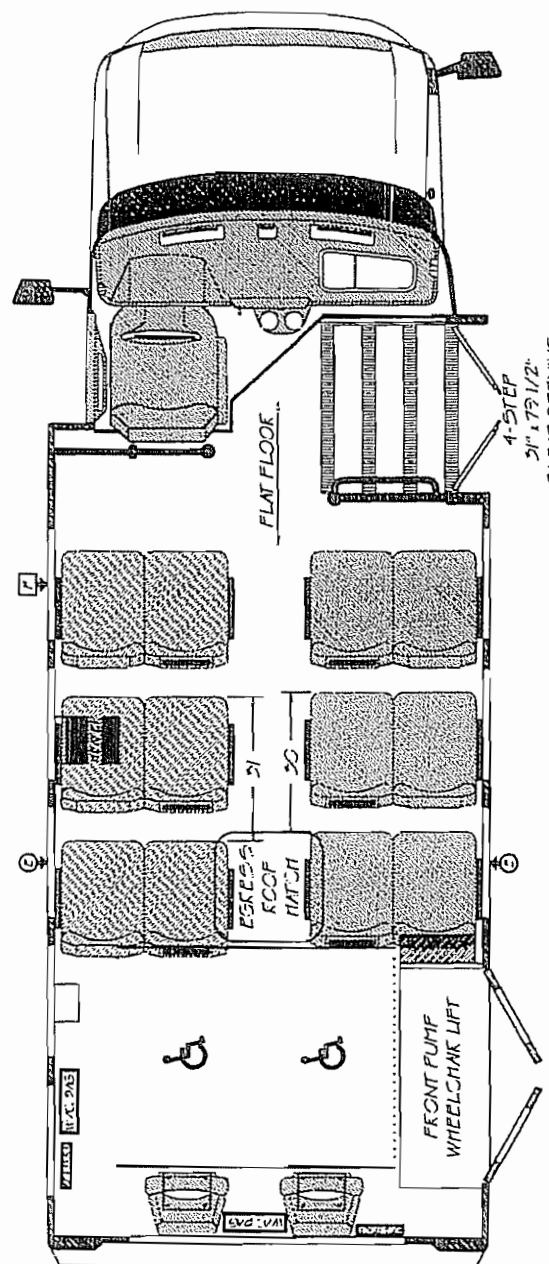
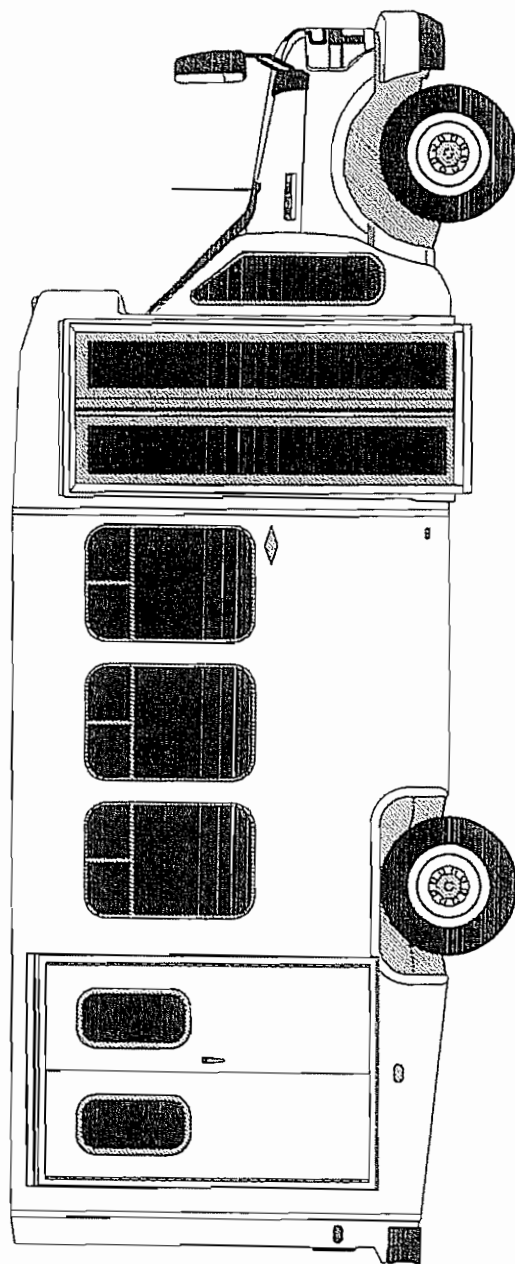
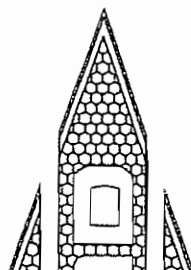


The Transit Connect has rear-folding bench seats for able-bodied passengers that fold forward to make room for wheelchair passengers. They easily fold back down and lock into place in less than a minute.

14 PASSENGERS OR
12 PASSENGERS & 2 W/C
(REAR LIFT)

CHASSIS: 155" WHEEL BASE FORD E-SERIES
DRAWN BY: WTL/KCF
SCALE: 1:40
DATE: 10/27/11
NUMBER: 8421
LEGEND:

- ♿ - ADA WHEELCHAIR PLACEMENT
- ⊙ - EGRESS WINDOW
- ⊙ - WHEELCHAIR TIE DOWN SHOULDER BELT LOCATION
- ⊙ - WHEELCHAIR TIE DOWN STORAGE BAG LOCATION
- ♿ - ADA PRIORITY SEAT LOCATION



BOOK 72

2000 11 06

**VALENCIA COUNTY
BOARD OF COUNTY COMMISSIONERS
ACCOUNTS PAYABLE AUTHORIZATION**

Sally Perea
The attached computer printout lists all the checks issued by the Manager's Office on January 25, 2012 covering vendor bills processed on the above date.

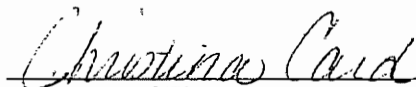
Check # 111786 through 111881 inclusive, for the total of \$1,800,094.27.

All have been reviewed for:

1. Appropriate documentation and approvals.
2. Authorized budget appropriations.
3. Compliance with New Mexico Statutes, and
4. DFA Rules and Regulations.

In recognition of the above, the Fiscal Office requests this action be officially recorded in the minutes of the regular county commission meeting before which body this matter came.

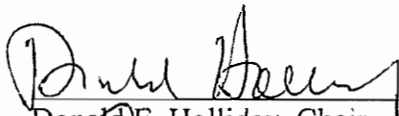
Recommended:



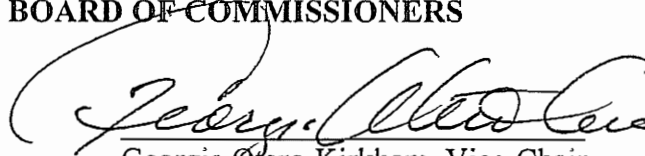
Director of Finance

Done this 1st day of February, 2012.

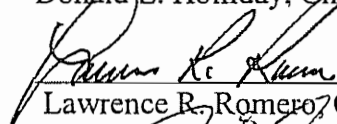
VALENCIA COUNTY BOARD OF COMMISSIONERS



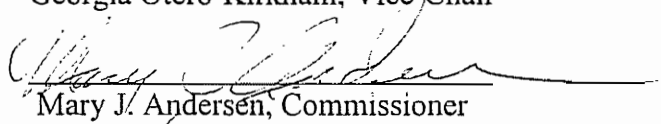
Donald E. Holliday, Chair



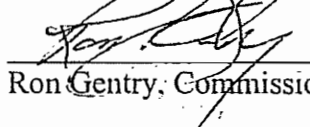
Georgia Otero-Kirkham, Vice-Chair



Lawrence R. Romero, Commissioner

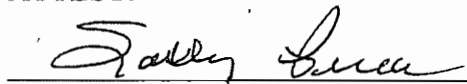


Mary J. Andersen, Commissioner



Ron Gentry, Commissioner

ATTEST:



Sally Perea, County Clerk

(EXHIBIT G)