

GALLUP MAINSTREET/ARTS & CULTURAL DISTRICT
PROFESSIONAL CONTRACT PROPOSAL AGREEMENT

with the

CITY OF GALLUP, NEW MEXICO

This professional contract proposal ("this Agreement") is effective July 1, 2019, between the City of Gallup, New Mexico, a local government corporation (the "City") whose notice address is 110 W. Aztec, Gallup, New Mexico, 87301, and the Gallup MainStreet Arts & Cultural District corporation (the "Contractor") whose notice address is P.O. Box 6007, Gallup, New Mexico 87305, (collectively, the "Parties").

Gallup MainStreet Arts & Cultural District - Mission and Purpose:

The mission of the Gallup MainStreet Arts & Cultural District is to build partnerships with diverse groups and individuals to revitalize the traditional historic commercial center of Gallup, educate visitors and citizens about the historic and economic wealth of downtown Gallup, enhance the quality of the environment, including buildings, signs and landscape improvements, and develop a positive image that will attract tourism through ongoing community involvement, growth and pride.

I. Scope of Services: Activities Reflecting City Funds

A. Core Services

As part of the year-to-year, recurring Core Services in fulfillment of the roles, responsibilities and expectations identified in the Biannual Memorandum of Understanding executed between the Contractor (Gallup MainStreet Arts & Cultural District), the City of Gallup and the New Mexico MainStreet program (NMMS), the Contractor shall provide unified management and coordination for the revitalization and economic development activities in the historic business district of Gallup in accordance to with the guidelines and expectations of the National Main Street Center and the New Mexico MainStreet Program, State Coordinating body:

1. Maintain a legally-compliant 501c3 MainStreet organization to help revitalize and support economic growth within the designated Historic MainStreet District ("Downtown") in accordance with the New Mexico MainStreet guidelines and objectives.
2. Connect technical assistance and financial resources provided by the New Mexico MainStreet program to implement projects under the public-private partnership guidelines established by the biannual MOU.
3. Work closely with the City's elected officials and professional staff, Chambers of Commerce, and all organizations, individuals, and entities in order to draw on resources to augment the work of its staff and board to bring projects to completion and meet common goals.
4. Work with and coordinate activities between community civic groups, downtown business, financial institutions, and the government; forge new and stronger relationships with public and

private agencies and the downtown business community to ensure that teamwork would be in place for the success of the Gallup MainStreet program and its initiatives.

5. Adopt at least two Economic Transformation Strategies and develop annual work plans for the implementation of revitalization projects in the Gallup MainStreet district.
6. Adopt a Capacity-Building strategy that enhances organizational resources and supports long-term sustainability of the Gallup MainStreet program to engage the public-private partnerships with City government and the New Mexico MainStreet program.
7. Provide a qualified, experienced Main Street Program Executive Director whose duties would be, among others, to provide compliance and reporting documentation for the Gallup MainStreet program and also to help coordinate revitalization projects in the historic commercial district.
8. Ensure adequate organizational progress toward completion of all compliance standards and operating guidelines established by the National Main Street Center and the New Mexico MainStreet program to maintain status as a MainStreet America Accredited Program.
9. Establish committees or taskforces to design, plan and implement projects that enhance economic development within the Gallup MainStreet district, including, but not limited to business development, events, public relations efforts, shop local campaigns, events, building improvements, façade or curb appeal projects, streetscapes, placemaking and beautification efforts.
 - Conduct regular business/property owner visits to support stakeholder engagement and to identify key areas for business development and support
 - Maintain building and property inventories
 - Seek resources for implementation of design, placemaking and beautification projects
 - Work with the City on developing priority projects to include in Infrastructure Capital Improvement Plans and seek public funding for public infrastructure projects that support district revitalization
 - Plan and implement branding, image development and promotion activities in the district
10. Use NMMS reporting tools to track and communicate key statistics of jobs, new businesses, building rehabilitations, and public/private sector investments in the district and serve as an information clearing house for this type of information in the community.

B. Additional Services to be Completed within the Current Fiscal Year

In addition to the Core Services listed above, the Contractor shall complete the following activities in advancing the board-adopted Economic Transformation Strategies:

Transformation Strategy #1: Improve the appearance of the Downtown District.

Tasks to be completed in FY20:

Organization

1. Submit no less than four (4) services requests to the New Mexico MainStreet program to connect technical assistance and financial resources to local business/property owners to support the economic revitalization of the district, or to strengthen organizational capacity relating to:

- a. Rehabilitation of downtown properties and/or historic buildings.
- b. Implementation of placemaking projects or similar design initiatives.
- c. Support, develop or enhance local business practices and endeavors or recruit new businesses to the district.
- d. Enhance branding, marketing, image development and events that support district revitalization.
- e. Developing skills and resources for the overall revitalization of the district or sustainability of the Gallup MainStreet Program.

Design, Economic Vitality and Promotion

- 2. Work with Property Owners on improving privately owned spaces in the district to:
 - a. Install vinyl window wraps on vacant properties to promote other things happening in the community or solicit new tenants for the property.
 - b. Purchase and install historic plaques/markers on qualifying historic properties.
 - c. Create map to distribute to tourists as part of a downtown walking tour project.
- 3. Work with the City of Gallup on implementing improvements to public spaces, including:
 - a. Initiate façade improvement tasks related to the Alley Improvement Project, in partnership with the BID.
 - b. Support the development of resources and Coal Avenue "Event Street". Organize and engage downtown business owners to participate in the Event Street improvements.
 - c. Partner with Comcast to maximize impact of the Clean Up Day in the downtown district
 - d. Strategize a plan of for the downtown flower box/pot program.

Transformation Strategy #2: Work to create a positive image of downtown to rekindle community pride and improve consumer and investor confidence.

Tasks to be completed in FY20:

Promotion

- 1. Promote existing downtown businesses by assisting with marketing efforts and building an editorial strategy to promote downtown businesses and attractions.
- 2. Promote downtown via the “Downtown Night Out” events.
- 3. Create and distribute promotional items that support the development of a positive image of downtown, such as brochures and social media posts.

Transformation Strategy #3: Create a Positive Business Environment for a More Diverse Mix of Businesses.

Tasks to be completed in FY20:

Economic Vitality

- 1. Promote pathways for entrepreneurship in the district:
 - a. Conduct regular downtown business visits to identify their needs and areas where Gallup MainStreet/ACD can assist.
 - b. Research, document and share available incentives or programs that can be developed to attract more businesses to the downtown district.

2. Research and initiate activities to strengthen the existing business environment, including coordinating downtown stakeholder meetings.

Capacity-Building Strategy: Build the Efficacy and Capacity of the Gallup MainStreet Arts & Cultural District.

Tasks to be completed in FY20:

1. With the support of facilitators from New Mexico MainStreet, convene a board planning retreat that:
 - a. Examines best practices in other NM MainStreet communities, particularly with respect to public infrastructure improvements.
 - b. Ensures adequate training and onboard of new board members.
 - c. Establishes a basic work plan for FY20 projects that are implemented with the support of board members and other volunteers.
2. Institutionalize innovative funding and fundraising projects:
 - a. Develop a signature fundraising event
 - b. Gallup MainStreet Christmas ornament fundraiser
3. Educate the downtown community about our programs and services:
 - a. Prepare and distribute a quarterly newsletter to all the businesses in the district that provides key information resources and updates on the downtown revitalization efforts.
 - b. Prepare and submit articles for the *Journey* print magazine that focus on business or community development issues.
 - c. Grow and enhance online/social media and other marketing products.
4. Engage in strategic collaborations with area organizations to enhance institutional effectiveness:
 - a. Partner with Ceremonial and GallupARTS to showcase the Best in Show from Ceremonial at ART123.

II. COMPENSATION

For services, as described hereinafter, compensation shall be provided as follows:

A. Compensation Generally

- (1) In consideration for the Core and Additional Services listed in Section 1, Scope of Work (above) rendered in FY20, and in compliance with the biannual MOU executed with New Mexico MainStreet, the City shall pay to the Contractor the sum of \$40,000.00.
- (2) In support of the implementation of projects and in fulfillment of the biannual MOU executed with New Mexico MainStreet, the City shall provide the following in-kind services to the Contractor during FY20:
 - Appoint City staff to serve on GMSACD board as ex-officio
 - Participate in coordination and information sharing
 - Provide project management services for downtown infrastructure projects

- (3) For the fiscal year above, the Parties may agree to review and renegotiate the amount of compensation to be paid pursuant to this Agreement and amend this Agreement accordingly. Said review shall occur during the regular budget process for the City.

B. Method of Payment

- (1) The City shall pay Contractor in four equal installments of \$10,000.00 on a quarterly basis of each fiscal year. The City shall provide the initial payment in July with the execution of the contract commencing on July 1, 2019 and upon submission and approval of an invoice for services by the Contractor. Thereafter, the City shall provide subsequent quarterly payments in October, January and April upon submission of invoices and quarterly reports detailing progress with implementation of project deliverables in the previous quarter.

III. TERM OF AGREEMENT

The term of this Agreement shall be for one year, beginning on July 1, 2019 and ending on June 30, 2021 ("Term"), unless terminated pursuant to paragraphs 2, 3, 12, 15, 16 and 17 of Section V below.

IV. TERMINATION

This Agreement may be terminated by either party upon sixty days prior written notice to the other party. 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 STATE IN SUCH CIRCUMSTANCES AS CONTRACTOR'S DEFAULT/BREACH OF CONTRACT. *

V. ADDITIONAL SPECIFICATIONS AND TERMS

1. REPORTS AND AUDIT

- A. The Contractor shall maintain full and complete financial records kept in accordance with generally accepted accounting principles, which records shall be available for inspection by the City at reasonable times and upon reasonable notice.
- B. The Contractor shall submit an annual financial statement and progress report to the City designated representative and/or Governing Body of the City as requested.
- C. The Contractor shall maintain, for three (2) years, detailed time records which indicate the dates, time and nature of services rendered. These records shall be subject to inspection by the City and the State Auditor. The City shall have a right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the City to recover excessive and/or illegal payments.

2. EVENTS OF DEFAULT

The Contractor shall be deemed to be in default and breach of this Agreement if the Contractor fails to perform the Services of the Contractor under the Agreement.

3. EFFECT OF DEFAULT

In the event of any default, as set forth in the preceding section, the City may terminate this agreement and pursue its remedies at law and equity

4. INDEMNIFICATION

Contractor indemnifies the City of Gallup against any claims, suits, liens, and judgments of whatever nature, including claims of contribution and/or indemnification, damage to property or other rights of any person or persons, caused by the Contractor.

5. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Governing Body of the City for the performance of this agreement. If sufficient appropriations and authorization are not made by the Governing Body of the City, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

6. STATUS OF CONTRACTOR

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City of Gallup as a result of this Agreement.

7. SUBCONTRACTING

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 City.

8. NO THIRD PARTY BENEFICIARIES

This agreement confers no additional rights or benefits other than those explicitly provided herein to the City and the Contractor; there shall be no third-party beneficiaries assigned in this contract.

9. SEVERABILITY AND SURVIVAL

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

10. RELEASE

The Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a release of the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to bind the City in any way unless the Contractor has expressed written authority to do so, and then only within the strict limits described herein.

11. 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 City, however information provided to the City may be subject to disclosure under the New Mexico Inspection of Public Records Act.

12. CONFLICT OF INTEREST

The contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-17 NMSA 1978, regarding contracting with a public officer or City employee have been followed.

13. MERGER

This Agreement incorporates all of the agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this Agreement. No prior agreement or understanding, oral or otherwise, of the Parties or their agents shall be valid or enforceable unless embodied in this Agreement.

14. NOTICE

The Procurements Code, Sections 13-1-28 through 12-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

15. EQUAL OPPORTUNITY AND NONDISCRIMINATION COMPLIANCE

The Contractor agrees to abide by all federal and state laws, rule, regulations and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity and non-discrimination.

16. WORKER'S COMPENSATION COMPLIANCE

The Contractor agrees to comply with the 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, the City reserves the right to terminate this Agreement.

17. APPLICABLE LAWS

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Gallup.

18. AMENDMENT

This agreement shall not be altered, changed or amended except by instrument in writing executed by the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of this ____ day of _____ 2019.

CITY:

City of Gallup

CONTRACTOR:

Gallup MainStreet Arts & Cultural District
A New Mexico Non-Profit Corporation

By _____
Maryann Ustick, City Manager
City of Gallup

By _____
Emerald Tanner, President
Board of Directors
Gallup MainStreet Arts & Cultural District

ATTEST:

Alfred Abeita, City Clerk
City of Gallup

Kara Smith, Executive Director
Gallup MainStreet Arts & Cultural District