

DRAFT CONTRACTOR AGREEMENT

THIS AGREEMENT, entered into the _____ day of _____, 2022 by and between _____ herein called the “Contractor” and the City of Gallup, a municipal corporation, herein called the “City”.

1. SCOPE OF WORK:

The Contractor shall provide:_____

2. COMPENSATION:

In consideration for the services provided pursuant to Paragraph 1, the Contractor shall charge the City on a monthly billing basis the amount of \$_____.

On any billing, Taxes shall be shown as a separate line item.

The Offeror shall provide a quarterly detailed billing report (with receipts), separate from the invoice documenting the expenditures for services provided. **The separate detailed billing report shall be sent separately from the accounts payable invoice** and shall be addressed to the attention of the City _____ Office or the City’s designated representative.

1. TERM:

Subject to the parties executing this contract, the term of this Agreement shall be effective from July 1, 2022 to June 30, 2023 unless sooner terminated.

2. TERMINATION:

Termination for Cause. If, through any cause, the CONTRACTOR fails to fulfill in a timely and proper manner the Contractor’s obligations under this Agreement, or if the CONTRACTOR violates any of the covenants, agreements, or stipulations of this Agreement, the CITY may order CONTRACTOR by written notice to stop the services or any portion of them until the cause for such order has been eliminated. If the CONTRACTOR fails to correct the cause within five (5) working days of date of written notice, CITY shall have the right to immediately terminate this Agreement. The CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed.

Termination for Convenience. Notwithstanding the above, this Agreement may be terminated without cause by the City upon written notice delivered to the CONTRACTOR at least thirty (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.

3. STATUS OF CONTRACTOR:

The Contractor and his agents and employees are independent contractors performing professional services for the City and are not employees of the City of Gallup. The Contractor, and his agent 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. Neither shall the City be liable to the Contractor nor its Agents, nor their estates for any injury to person or property incurred in the course of the performance of this Agreement unless such injury shall have directly and proximately resulted from grossly negligent or reckless conduct on the part of the City or its Agents acting within the scope of their employment and official duties.

4. INDEMNITY:

The contractor shall indemnify and hold harmless the City, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to persons' or damage to property caused by, or resulting from, contractor's and /or its employees, own negligent act(s) or omission(s) while contractor and/or its employees performs or fails to perform its obligations and duties under this agreement.

5. 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 City.

6. SUBCONTRACTING:

The Contractor may subcontract any portion of the services to be performed under this Agreement with the prior written approval of the City.

7. RECORDS AND AUDIT:

The Contractor shall maintain detailed time records which indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the City of Gallup Finance Department and the New Mexico State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments. Provide an annual financial report including details on all expenditures exceeding \$1,000

8. APPROPRIATIONS:

The terms of this Agreement are contingent upon sufficient monies being made available by the City of Gallup for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City of Gallup, 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.

9. RELEASE:

The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, and the City of Gallup from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City of Gallup to any obligations not assumed herein by the City of Gallup, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

10. CONFIDENTIALITY:

Any information given 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.

11. OWNERSHIP OF DOCUMENTS:

All documents, drawings, media, and studies which are prepared in the performance of this Agreement are to be and remain the property of the Owner and are to be delivered to the Owner before the final payment is made to the Contractor. The Contractor is liable for their replacement if destroyed or lost prior to transferring possession to the Owner. Any use of these products by anyone other than the Owner for projects other than that which is subject to this Agreement shall be at the Owner's sole risk.

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 of services required under this Agreement.

13. AMENDMENT:

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

14. SCOPE OF AGREEMENT:

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have merged into this written Agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement. And no subsequent agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless incorporated by way of amendment as described in Paragraph 14.

15. NOTICE OF PROCUREMENT CODE:

The Procurement Code of the City of Gallup imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

16. 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 and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, 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 the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

17. INSURANCE:

Contractor shall provide certificate of insurance, which includes statutory limits for worker's compensation, specified in Paragraph C, page 12 with the City named as additional insured. Certificates evidencing the above shall be furnished to the City of Gallup.

18. APPLICABLE LAW:

This Agreement shall be governed by the ordinances of the City of Gallup and the laws of the State of New Mexico.

19. RENEWAL:

After the initial two (2) year term, the Contract shall automatically renew for two (2) additional years unless sooner terminated in accordance with Paragraph 2.

20. WAIVER OF CONTRACTURAL RIGHT:

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

21. SEVERABILITY:

If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

22. NOTICE:

All notices, requests, demands or other communications required or desired to be made or given hereunder or in connection herewith shall be in writing and shall be deemed to be duly given if delivered in person or mailed by certified or registered mail, postage prepaid, to the parties at the following addresses, or to such other addresses as may from time to time be designated by the parties by written notice in the manner herein provided:

City of Gallup:

Purchasing Director
Frances Rodriguez
City of Gallup
P.O. Box 1270
Gallup, New Mexico 87305-1270

Project Contact for the City:

City Manager
Maryann Ustick
P.O. Box 1270
Gallup, New Mexico 87305-1270

Provider:

IN WITNESS THEREOF, the parties hereto have executed this Agreement as of the date of executing by the City below

CONTRACTOR:

COMPANY NAME: _____

SIGNED BY: _____
NAME AND TITLE

Date: _____

CITY OF GALLUP, NEW MEXICO

BY: _____
Frances Rodriguez, Purchasing Director

Date: _____

Attest:

Alfred Abeita: City Clerk

Date: _____