



CIBOLA COUNTY BOARD OF COMMISSIONERS

Christine Lowery
Chair

Ralph Lucero
1st Vice Chair

Daniel Torrez
2nd Vice Chair

Martha Garcia
Commissioner

Robert Windhorst
Commissioner

Special Canvassing Commission Meeting Thursday, June 13, 2024 2:00 p.m.

Cibola County Commission Chambers

1. **Call to Order**
2. **Roll Call**
3. **Pledge of Allegiance**
4. **Prayer**
5. **Approval of Agenda**
6. **Canvassing**
(County Commission Convenes as Canvassing Board)
 - a. Consideration of Canvassing the Results of the 2024 Primary Election
(County Commission Reconvenes as Commission Board)
7. **New Business**
 - a. Consideration of Contract with Compass Engineering & Construction Services, LLC as General Contractor for County Road 5 Moquino Llano Road & Bridge Project
 - b. Direction to County Manager to Execute Professional Services Agreement with WSP for Construction Management of County Road 5
 - c. Direction to County Manager to Execute AIA Contract with Proline Trails of AZ as Trail Construction Contractor for Quartz Hill Trail located in the Zuni Mountains
 - d. Consideration of Requisitions over \$20,000
 1. 10 years-10 certs for Tasers, Body & Dash Camera- /Axon/Sheriff-\$923,062.27
8. **Announcements**
 - a. The Next Regular Commission Meeting will be on Thursday, June 27, 2024, at 5:00p.m.
9. **Adjournment**

Note: This agenda is subject to change up to 72 hours prior to the scheduled meeting date and time as deemed necessary by the County Manager. To inquire about agenda changes, please contact the Grants/Project Manager, Judy Horacek, at 505.285.2557 or judy.horacek@co.cibola.nm.us. 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 County Manager at least one (1) week prior to the meeting or as soon as possible.



6a. Canvassing

2024 Primary Election

Canvassing the Results



CERTIFICATION OF CANVASS RESULTS

We, the undersigned Board of County Commissioners acting as the Board of Canvassers of Cibola County, State of New Mexico, canvass the Primary Election held in said county, June 4, 2024, certify that the canvass results text file sent to the office of secretary of state is a correct canvass of returns of said election.

WITNESS the Honorable Board of County Commissioners, _____
Date

ATTEST:

Clerk

Member

Chairman

Member

Member

SEAL

Member

Member

2024 Primary Election Official Results

Race Name	Area	Party	Candidate/Question	Votes
President of the United States		DEM	Joseph R Biden	1570
President of the United States		DEM	Marianne D Williamson	298
President of the United States		DEM	Uncommitted Delegate	288
United States Senator		DEM	Marlin Heinrich	1945
United States Representative	District 2	DEM	Gabriel Vasquez	1911
State Senator	District 30	DEM	Angel M Charley	566
State Senator	District 30	DEM	Clemente Sanchez	417
State Senator	District 4	DEM	Keith Edward Hillock	225
State Senator	District 4	DEM	George K Munoz	1023
State Representative	District 6	DEM	Eliseo Lee Alcon	439
State Representative	District 6	DEM	Priscilla Benally	195
State Representative	District 6	DEM	Daniel J Torrez	287
State Representative	District 69	DEM	Michelle P Abeyta	678
State Representative	District 69	DEM	Harry Garcia	520
State Representative	District 69	DEM	Stanley E Michael	162
District Attorney- 13th Judicial District		DEM	Barbara A Romo	1889
County Clerk		DEM	Natalie A Grine	1930
County Treasurer		DEM	Joanne Martinez	1131
County Treasurer		DEM	Johnny A Pino	616
County Treasurer		DEM	Wendy Michelle Self	439
County Commissioner by Commissioner District	District 2	DEM	Ray D Carpenter	264
County Commissioner by Commissioner District	District 2	DEM	Ruben Sandoval	176
County Commissioner by Commissioner District	District 4	DEM	Charles A Lundstrom	204
County Commissioner by Commissioner District	District 4	DEM	Michael W Lewis	136
County Commissioner by Commissioner District	District 5	DEM	Georgia A Routzen Sanchez	380
President of the United States		REP	Chris Christie	29
President of the United States		REP	Nikki Haley	79
President of the United States		REP	Vivek Ramaswamy	13
President of the United States		REP	Donald J Trump	855
President of the United States		REP	Uncommitted Delegate	29
United States Senator		REP	Nella Louise Domenici	824

United States Representative	District 2	REP	Yvette Herrell	878
State Representative	District 6	REP	Paul L Spencer	477
County Commissioner by Commissioner District	District 2	REP	Fred E Rodarte	147
County Commissioner by Commissioner District	District 4	REP	Adelaida Grace Yarborough	104
County Commissioner by Commissioner District	District 4	REP	Harry L Hall	87
County Commissioner by Commissioner District	District 4	REP	Joseph Tanner Windhorst	120
President of the United States		LIB	Lars Mapstead	11
President of the United States		LIB	Uncommitted Delegate	4

Voter Turnout

County	Ballots Cast	Percentage	*Eligible Voters
Cibola County	3,354	28.39%	11,818

Precincts Reporting: 30 of 30

Precinct	Ballots Cast	*Eligible Voters
PRECINCT 001	46	178
PRECINCT 002	87	257
PRECINCT 003	39	79
PRECINCT 004	121	389
PRECINCT 005	162	926
PRECINCT 006	41	166
PRECINCT 007	205	581
PRECINCT 008	147	580
PRECINCT 009	192	619
PRECINCT 010	170	564
PRECINCT 011	285	767
PRECINCT 012	121	358
PRECINCT 013	107	336
PRECINCT 014	142	536
PRECINCT 015	135	458
PRECINCT 016	133	381
PRECINCT 017	198	729
PRECINCT 018	65	260
PRECINCT 019	121	329
PRECINCT 020	124	538
PRECINCT 021	49	268
PRECINCT 022	75	229
PRECINCT 023	16	81

PRECINCT 024	74	292
PRECINCT 025	31	168
PRECINCT 026	116	419
PRECINCT 027	56	215
PRECINCT 028	150	590
PRECINCT 029	111	323
PRECINCT 030	35	202

Cibola County
REPUBLICAN PARTY
Countywide

Ballots Cast Summary of Primary Election Held on June 4, 2024
State of New Mexico

Precinct	Absentee	Early	Election Day	Hand	Provisionals	Total Ballots Cast
PRECINCT 001	2	3	33	0	0	38
PRECINCT 002	0	1	21	0	0	22
PRECINCT 003	0	3	11	0	0	14
PRECINCT 004	0	9	65	0	0	74
PRECINCT 005	5	17	6	0	0	28
PRECINCT 006	2	6	24	0	0	32
PRECINCT 007	6	26	32	0	0	64
PRECINCT 008	6	14	20	0	0	40
PRECINCT 009	2	21	24	0	0	47
PRECINCT 010	0	27	36	0	0	63
PRECINCT 011	11	31	40	0	0	82
PRECINCT 012	1	16	22	0	0	39
PRECINCT 013	0	20	18	0	0	38
PRECINCT 014	0	21	42	0	0	63
PRECINCT 015	4	31	40	1	0	76
PRECINCT 016	2	23	25	0	0	50
PRECINCT 017	0	2	7	0	0	9
PRECINCT 018	0	2	6	0	0	8
PRECINCT 019	5	25	30	0	0	60
PRECINCT 020	0	4	15	0	0	19
PRECINCT 021	0	5	5	0	0	10
PRECINCT 022	2	2	11	0	0	15
PRECINCT 023	0	0	2	0	0	2
PRECINCT 024	0	1	5	0	0	6
PRECINCT 025	0	0	3	0	0	3
PRECINCT 026	1	9	11	0	0	21
PRECINCT 027	1	6	12	0	0	19
PRECINCT 028	0	15	32	0	0	47
PRECINCT 029	0	2	9	0	0	11
PRECINCT 030	2	5	6	0	0	13
	52	347	613	1	0	1013

Cibola County
LIBERTARIAN PARTY
Countywide

Ballots Cast Summary of Primary Election Held on June 4, 2024
State of New Mexico

Precinct	Absentee	Early	Election Day	Hand	Provisionals	Total Ballots Cast
PRECINCT 001	0	0	0	0	0	0
PRECINCT 002	0	0	0	0	0	0
PRECINCT 003	0	0	0	0	0	0
PRECINCT 004	0	0	1	0	0	1
PRECINCT 005	0	0	0	0	0	0
PRECINCT 006	0	0	0	0	0	0
PRECINCT 007	0	1	1	0	0	2
PRECINCT 008	0	1	1	0	0	2
PRECINCT 009	0	1	0	0	0	1
PRECINCT 010	0	0	0	0	0	0
PRECINCT 011	0	0	1	0	0	1
PRECINCT 012	0	0	0	0	0	0
PRECINCT 013	0	0	1	0	0	1
PRECINCT 014	0	0	0	0	0	0
PRECINCT 015	0	0	0	0	0	0
PRECINCT 016	0	0	2	0	0	2
PRECINCT 017	0	0	0	0	0	0
PRECINCT 018	0	2	0	0	0	2
PRECINCT 019	0	0	0	0	0	0
PRECINCT 020	0	0	0	0	0	0
PRECINCT 021	0	0	0	0	0	0
PRECINCT 022	0	0	0	0	0	0
PRECINCT 023	0	0	0	0	0	0
PRECINCT 024	0	0	0	0	0	0
PRECINCT 025	0	0	0	0	0	0
PRECINCT 026	0	0	1	0	0	1
PRECINCT 027	0	0	0	0	0	0
PRECINCT 028	0	0	0	0	0	0
PRECINCT 029	0	1	0	0	0	1
PRECINCT 030	0	1	0	0	0	1
	0	7	8	0	0	15

Cibola County
DEMOCRATIC PARTY
Countywide

Ballots Cast Summary of Primary Election Held on June 4, 2024
State of New Mexico

Precinct	Absentee	Early	Election Day	Hand	Provisionals	Total Ballots Cast
PRECINCT 001	0	1	7	0	0	8
PRECINCT 002	6	5	54	0	0	65
PRECINCT 003	0	10	15	0	0	25
PRECINCT 004	10	8	28	0	0	46
PRECINCT 005	5	37	92	0	0	134
PRECINCT 006	4	1	4	0	0	9
PRECINCT 007	10	51	78	0	0	139
PRECINCT 008	8	40	57	0	0	105
PRECINCT 009	9	70	65	0	0	144
PRECINCT 010	7	38	62	0	0	107
PRECINCT 011	24	104	74	0	0	202
PRECINCT 012	10	40	32	0	0	82
PRECINCT 013	3	41	24	0	0	68
PRECINCT 014	4	24	51	0	0	79
PRECINCT 015	10	20	29	0	0	59
PRECINCT 016	6	51	24	0	0	81
PRECINCT 017	6	65	118	0	0	189
PRECINCT 018	6	15	33	1	0	55
PRECINCT 019	7	34	20	0	0	61
PRECINCT 020	2	17	86	0	0	105
PRECINCT 021	1	9	29	0	0	39
PRECINCT 022	4	2	50	0	4	60
PRECINCT 023	1	2	11	0	0	14
PRECINCT 024	7	8	53	0	0	68
PRECINCT 025	1	3	23	0	1	28
PRECINCT 026	5	26	63	0	0	94
PRECINCT 027	2	24	11	0	0	37
PRECINCT 028	15	33	55	0	0	103
PRECINCT 029	4	24	71	0	0	99
PRECINCT 030	2	4	15	0	0	21
	179	807	1334	1	5	2326

Cibola County
DEMOCRATIC PARTY
Countywide

Candidate Summary of Primary Election Held on June 4, 2024
State of New Mexico

President of the United States	
JOSEPH R BIDEN	1570
MARIANNE D WILLIAMSON	298
UNCOMMITTED DELEGATE / DELEGADO NO COMPROMETIDO	288
United States Senator	
MARTIN HEINRICH	1945
United States Representative - DISTRICT 2	
GABRIEL VASQUEZ	1911
State Senator - DISTRICT 30	
ANGEL M CHARLEY	566
CLEMENTE SANCHEZ	417
State Senator - DISTRICT 4	
KEITH EDWARD HILLOCK	225
GEORGE K MUNOZ	1023
State Representative - DISTRICT 6	
ELISEO LEE ALCON	439
PRISCILLA BENALLY	195
DANIEL J TORREZ	287
State Representative - DISTRICT 69	
MICHELLE P ABEYTA	678
HARRY GARCIA	520
STANLEY E MICHAEL	162
District Attorney - 13TH JUDICIAL DISTRICT	
BARBARA A ROMO	1889
County Clerk	
NATALIE A GRINE	1930
County Treasurer	
JOANNE MARTINEZ	1131
JOHNNY A PINO	616
WENDY MICHELLE SELF	439
County Commissioner by Commissioner District - DISTRICT 2	
RAY D CARPENTER	264
RUBEN SANDOVAL	176

County Commissioner by Commissioner District - DISTRICT 4

CHARLES A LUNDSTROM

204

MICHAEL W LEWIS

136

County Commissioner by Commissioner District - DISTRICT 5

GEORGIA A ROUTZEN SANCHEZ

380

Cibola County
REPUBLICAN PARTY
Countywide

Candidate Summary of Primary Election Held on June 4, 2024
State of New Mexico

President of the United States

CHRIS CHRISTIE	29
NIKKI HALEY	79
VIVEK RAMASWAMY	13
DONALD J TRUMP	855
UNCOMMITTED DELEGATE / DELEGADO NO COMPROMETIDO	29

United States Senator

NELLA LOUISE DOMENICI	824
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United States Representative - DISTRICT 2

YVETTE HERRELL	878
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State Representative - DISTRICT 6

PAUL L SPENCER	477
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County Commissioner by Commissioner District - DISTRICT 2

FRED E RODARTE	147
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County Commissioner by Commissioner District - DISTRICT 4

ADELAIDA GRACE YARBOROUGH	104
HARRY L HALL	87
JOSEPH TANNER WINDHORST	120

Cibola County
LIBERTARIAN PARTY
Countywide

Candidate Summary of Primary Election Held on June 4, 2024
State of New Mexico

President of the United States

LARS MAPSTEAD

11

UNCOMMITTED DELEGATE / DELEGADO NO COMPROMETIDO

4

Cibola County
DEMOCRATIC PARTY

Canvass of Returns of Primary Election
Held on June 4, 2024 - State of New Mexico
Summary Bucket Report

Ballots Cast	179	1	0	0	0	0	0	807	0	0	0	1334	0	5	0
	Absentee - Machine	Absentee - Hand	Absentee FWAB	Federal Overseas - Hand	Federal Overseas - Machine	Absentee Provisional - Hand	Absentee Provisional - Machine	Early - Machine	Early - Hand	Early Provisional - Hand	Early Provisional - Machine	Election Day - Machine	Election Day - Hand	Election Day Provisional - Hand	Election Day Provisional - Machine
President of the United States															
JOSEPH R BIDEN	142	1	0	0	0	0	0	552	0	0	0	872	0	3	0
MARIANNE D WILLIAMSON	14	0	0	0	0	0	0	95	0	0	0	188	0	1	0
UNCOMMITTED DELEGATE / DELEGADO NO COMPROMETID O	14	0	0	0	0	0	0	95	0	0	0	178	0	1	0
United States Senator															
MARTIN HEINRICH	157	1	0	0	0	0	0	660	0	0	0	1122	0	5	0
United States Representative - DISTRICT 2															
GABRIEL VASQUEZ	155	1	0	0	0	0	0	666	0	0	0	1084	0	5	0
State Senator - DISTRICT 30															
ANGEL M CHARLEY	36	0	0	0	0	0	0	144	0	0	0	382	0	4	0
CLEMENTE SANCHEZ	20	1	0	0	0	0	0	140	0	0	0	255	0	1	0
State Senator - DISTRICT 4															
KEITH EDWARD HILLOCK	28	0	0	0	0	0	0	78	0	0	0	119	0	0	0
GEORGE K MUNOZ	88	0	0	0	0	0	0	412	0	0	0	523	0	0	0
State Representative - DISTRICT 6															
ELISEO LEE ALCON	50	0	0	0	0	0	0	162	0	0	0	227	0	0	0
PRISCILLA BENALLY	8	0	0	0	0	0	0	51	0	0	0	136	0	0	0
DANIEL J TORREZ	21	0	0	0	0	0	0	105	0	0	0	161	0	0	0
State Representative - DISTRICT 69															
MICHELLE P ABEYTA	49	0	0	0	0	0	0	156	0	0	0	468	0	5	0
Total															

Cibola County
DEMOCRATIC PARTY

Canvass of Returns of Primary Election
Held on June 4, 2024 - State of New Mexico
Summary Bucket Report

	Absentee - Machine	Absentee - Hand	Absentee FWAB	Federal Overseas - Hand	Federal Overseas - Machine	Absentee Provisional - Hand	Absentee Provisional - Machine	Early - Machine	Early - Hand	Early Provisional - Hand	Early Provisional - Machine	Election Day - Machine	Election Day - Hand	Election Day Provisional - Hand	Election Day Provisional - Machine	Total
HARRY GARCIA	36	1	0	0	0	0	0	239	0	0	0	244	0	0	0	520
STANLEY E MICHAEL	8	0	0	0	0	0	0	76	0	0	0	78	0	0	0	162
District Attorney - 13TH JUDICIAL DISTRICT																
BARBARA A ROMO	155	1	0	0	0	0	0	641	0	0	0	1087	0	5	0	1889
County Clerk																
NATALIE A GRINE	154	1	0	0	0	0	0	659	0	0	0	1111	0	5	0	1930
County Treasurer																
JOANNE MARTINEZ	76	1	0	0	0	0	0	428	0	0	0	625	0	1	0	1131
JOHNNY A PINO	39	0	0	0	0	0	0	180	0	0	0	394	0	3	0	616
WENDY MICHELLE SELF	48	0	0	0	0	0	0	152	0	0	0	238	0	1	0	439
County Commissioner by Commissioner District - DISTRICT 2																
RAY D CARPENTER	20	0	0	0	0	0	0	107	0	0	0	137	0	0	0	264
RUBEN SANDOVAL	15	0	0	0	0	0	0	66	0	0	0	95	0	0	0	176
County Commissioner by Commissioner District - DISTRICT 4																
CHARLES A LUNDSTROM	25	0	0	0	0	0	0	67	0	0	0	112	0	0	0	204
MICHAEL W LEWIS	17	0	0	0	0	0	0	51	0	0	0	68	0	0	0	136
County Commissioner by Commissioner District - DISTRICT 5																
GEORGIA A ROUTZEN SANCHEZ	14	0	0	0	0	0	0	109	0	0	0	257	0	0	0	380

Canvass of Returns of Primary Election Held on June 4, 2024 - State of New Mexico Summary Bucket Report

[illegible]

Cibola County
REPUBLICAN PARTY

Canvass of Returns of Primary Election
Held on June 4, 2024 - State of New Mexico
Summary Bucket Report

Ballots Cast	52	1	0	0	0	0	0	0	347	0	0	0	613	0	0	0	Total
	Absentee - Machine	Absentee - Hand	Absentee FWAB	Federal Overseas - Hand	Federal Overseas - Machine	Absentee Provisional - Hand	Absentee Provisional - Machine	Early - Machine	Early - Hand	Early Provisional - Hand	Early Provisional - Machine	Election Day - Machine	Election Day - Hand	Election Day - Hand	Election Day - Machine		
President of the United States																	
CHRIS CHRISTIE	2	0	0	0	0	0	0	9	0	0	0	18	0	0	0	29	
NIKKI HALEY	11	0	0	0	0	0	0	33	0	0	0	35	0	0	0	79	
VIVEK RAMASWAMY	1	0	0	0	0	0	0	3	0	0	0	9	0	0	0	13	
DONALD J TRUMP	36	1	0	0	0	0	0	289	0	0	0	529	0	0	0	855	
UNCOMMITTED DELEGATE / DELEGADO NO COMPROMETIDO	2	0	0	0	0	0	0	9	0	0	0	18	0	0	0	29	
United States Senator																	
NELLA LOUISE DOMENICI	46	1	0	0	0	0	0	284	0	0	0	493	0	0	0	824	
United States Representative - DISTRICT 2																	
YVETTE HERRELL	43	1	0	0	0	0	0	303	0	0	0	531	0	0	0	878	
State Representative - DISTRICT 6																	
PAUL L SPENCER	28	1	0	0	0	0	0	170	0	0	0	278	0	0	0	477	
County Commissioner by Commissioner District - DISTRICT 2																	
FREDERICK RODARTE	16	0	0	0	0	0	0	64	0	0	0	67	0	0	0	147	
County Commissioner by Commissioner District - DISTRICT 4																	
ADELAIDA GRACE YARBOROUGH	2	0	0	0	0	0	0	28	0	0	0	74	0	0	0	104	
HARRY L HALL	2	0	0	0	0	0	0	32	0	0	0	53	0	0	0	87	

Canvass of Returns of Primary Election Held on June 4, 2024 - State of New Mexico Summary Bucket Report

[illegible]



7a. New Business Compass Eng. & Construction Contract

General Contractor for CR-5 Construction

**SUGGESTED FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between Cibola County ("Owner") and
 ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Concrete box culvert and roadway construction.

ARTICLE 2 – THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

County Road 5 Bridge Replacement

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by WSP (Engineer), which is to act as the owner's representative, assume all duties and responsibilities, and have the right and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 Time of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

- 4.03 The Work will be substantially completed within 150 Days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions and completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within 120 Days after the date when the Contract Times commence to run with the exception of the following.

4.04 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner \$1,000.00 for each day that expires after the time specified in Paragraph 4.02 above for Substantial Completion until the Work is substantially complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by Owner, Contractor shall pay Owner \$1,000.00 for each day that expires after the time specified in Paragraph 4.02 above for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A, 5.01.B, and 5.01.C below:

- A. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the actual quantity of that item.

The Bid prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions.

- B. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 20th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions.
- a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
- b. 90 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 90 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 – NOT USED

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any, that have been identified in Paragraph SC-4.02 of the Supplementary Conditions as containing reliable "technical data," and (2) reports and drawings of Hazardous Environmental Conditions, if any, at the Site that have been identified in Paragraph SC-4.06 of the Supplementary Conditions as containing reliable "technical data."
- E. Contractor has considered the information known to Contractor; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 8.01.E above, Contractor does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 8, inclusive).

2. Performance bond (pages 1 to 3, inclusive).
 3. Payment bond (pages 1 to 3, inclusive).
 4. Other bonds (pages _____ to _____, inclusive).
 - a. _____ (pages _____ to _____, inclusive).
 - b. _____ (pages _____ to _____, inclusive).
 - c. _____ (pages _____ to _____, inclusive).
 5. General Conditions (pages 1 to 62, inclusive).
 6. Supplementary Conditions (pages SC-1 to SC-8, inclusive).
 7. Specifications as listed in the table of contents of the Project Manual.
 8. Drawings consisting of 9 sheets with each sheet bearing the following general title: County Road 18b Bridge Replacement [or] the Drawings listed on attached sheet index.
 9. Addenda (numbers X to X, inclusive).
 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages _____ to _____, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (pages _____ to _____, inclusive).
 - c. *[List other required attachments (if any), such as documents required by funding or lending agencies].*
 11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages 1 to 1, inclusive).
 - b. Work Change Directives.
 - c. Change Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to

establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;

3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement. Counterparts have been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or have been identified by Owner and Contractor or on their behalf.

This Agreement will be effective on _____ (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR

Cibola County

By: _____

By: _____

Title: Chair Christine Lowery

Title: _____

(If Contractor is a corporation, a partnership,
or a joint venture, attach evidence of authority
to sign.)

Attest: _____

Attest: _____

Title: County Clerk- Michelle E Dominguez

Title: _____

Address for giving notices:

Address for giving notices:

700 E. Roosevelt Ave

Suite 50

Grants, NM 87020

License No.: _____

(Where applicable)

(If Owner is a corporation, attach evidence
of authority to sign. If Owner is a public body, attach
evidence of authority to sign and resolution or other
documents authorizing execution

*NOTE TO USER: Use in those states or other
jurisdictions where applicable or required.*

Agent for service of process:

of this Agreement.)



7b. New Business

WSP Constr. Mmgt Contract

County Road 5-Direction to CM



WSP USA Construction Services Scope & Tasks

Project: CN HW2LP0032 Roadway and Bridge Reconstruction
Owner: Cibola County

Prepared By: RDO
Date: 6/5/2024

WSP USA Inc - PMCM Construction Management & Inspection Services

A. Proposed Construction Services Scope of Work

1. WSP will provide one part time construction inspector to provide general inspection and observation of contractor work activities while on-site and within the limits of the part-time 8hr/wk work schedule requested by Cibola County. The WSP inspector will augment the County Construction Management team and will receive direction from the County Project Manager.
2. WSP construction inspector will inspect the Work up to eight (8) hours per week for a total of 21 weeks for the assumed 150 CD contract duration from Notice to Proceed to the original Substantial Completion date. The 8 hours/week includes drive time to and from the WSP Albuquerque Office to the project site. Any additional hours required for inspection of work beyond the 8 hrs/wk will be performed upon authorization by the Cibola County Project Manager and payment will be addressed by contract modification.
3. WSP will provide Quality Assurance and Independent Assurance Materials Sampling and testing services for the project. The WSP construction inspector will support the County PM in scheduling of materials sampling and testing needed for the project.
4. WSP Design Engineer and other WSP staff will provide partial construction coordination services for the original contract time duration and within the limits allowed by approved funding of these services.
5. WSP inspector will be certified through the NMDOT/ACNM Technician Training and Certification Program (TTCP) or other acceptable training program to perform highway and bridge construction inspection services.
6. Hours billed will be on a time and materials basis. A WSP client Inspection Timesheet can be submitted weekly to the Cibola County PM for review and approval in order to track inspection time charged to the project.

B. Assumptions:

1. Cibola County will provide a Construction Project Manager to be responsible for and administer the contract requirements for the construction project.
2. WSP will not be providing construction management of the project but will be in a support role to the County.
3. Any inspection required beyond the part time WSP inspection schedule of 8hrs/wk will be performed by the County or others. It is anticipated that a greater inspection frequency will be required beyond the 8hrs/week being provided by the WSP inspector and that the County will provide inspection of the work beyond the limits imposed by WSP's part time inspection schedule. The WSP Inspector will attempt to arrange his 8hr/wk work schedule to be on-site during major elements of the work such as concrete pours, base course placements, HMA placements, drilled shaft construction, bridge erection and staging, material sampling and testing, density tests on subgrade, basecourse and HMA, seeding, and final signing and striping. Any additional hours required for inspection of work beyond the 8 hrs/wk will be performed by Cibola County or by the WSP inspector upon authorization by the Cibola County Project Manager and payment will be addressed by contract modification. WSP will not be responsible for or be required to provide an inspector during contractor performance of every work item.
4. It is assumed other non-WSP individuals performing inspection of work will be qualified to perform such inspection and WSP will assume no responsibility or liability in said inspection performed by others.
5. WSP's scope of services does not include any direction relative to, or assume control over any aspect of the means, methods, techniques, or procedures of Contractor's work.
6. Final approval of pay requests, change orders, acceptance of Work, substantial completion and final acceptance remains with the County.
7. Project duration is assumed to be 150 Calendar Days from Notice to Proceed to Substantial Completion which is equivalent to 21 weeks.
8. No overtime hours are anticipated in performance of work. Any overtime need will be added to the contract by contract modification after approval by Cibola County PM



Proposed Tasks

This table in hours

Task 1	Pre-Construction Activities	WSP Design Engineer and	
		Staff	Inspector
	1a. Preconstruction Coordination with stakeholders such as Cibola County, NMDOT, utilities, others.	Not included in Scope	Not included in Scope
	1b. Prepare and setup project construction files, forms, source document books; final quantity books, minimum testing requirements, RFI tracking logs, submittal tracking logs.	Not included in Scope	Not included in Scope
Total Task 1:		0	0

Task 2	Construction Project Management and Document Control	WSP Engineer of Record and	
		Staff	Inspector

Note: WSP Engineer of Record and other WSP staff members will provide partial construction coordination and support to the County PM in the Construction Project Management tasks as noted below. Responsibility for Construction Management and Document Control shall remain with the County. WSP has allotted 87 hours in support of the tasks noted below. Any additional hours required to support these tasks beyond the 87 hours allotted will be performed by others or by WSP upon authorization by the County Project Manager and payment will be addressed by contract modification.

87 Not included in Scope

Construction Project Management - Tasks

2a. Review and monitor contractor schedule; prepare correspondence; monitor contract time.	Support	Not Included
2a. Administration and interpretation of the construction contract shall remain with the County. WSP will provide recommendations, coordination and support as requested and within the allotted time.	Support	Not included
2b. WSP will not be responsible for the day to day coordination of project activity with the contractor and others but will support the County PM as requested.	Support	Not included
2c. WSP will not be in immediate charge of the details of the project but will support the County PM as requested.	Support	Not included
2d. Authority to suspend the project; accept Work and/or Materials; reject Work and/or Materials determined to be in non-compliance with contract documents shall remain with the County PM. The WSP Engineer of Record will provide consultation and recommendations as requested.	Support	Not included
2e. The County PM shall be responsible for verification of Contractor compliance with Plans and Specs after consultation with WSP Engineer of Record	Support	Not included
2f. The County PM shall review incoming test results; determine compliance with specification; reject materials not meeting specification requirements; determine corrective measures; document findings; all with consultation and recommendations by WSP Engineer of Record.	Support	Not included
2g. The County PM shall be responsible for determination of Substantial Completion and Final Acceptance of the Work after consultation with WSP Engineer of Record.	Support	Not included
2h. WSP Engineer of Record will provide guidance, assistance, and input to the County PM on construction issues and Contractor work performance as requested and within the Support hours allotted.	Support	Not included

Offices Support and Document Control

Tasks:

2b. Maintain and log project correspondence; maintain and track incoming submittals and RFIs; maintain and track daily time count; verify and check pay quantities; check and track contractor payments; verify contractor and subcontractor payrolls; verify contractor labor compliance requirements; general filing, track shop drawing submittals; maintain forms and project documentation including field notes and calculations; maintain project photo log.	Not included in Scope	Not included in Scope
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Verify pay quantities with plans; check pay quantity calculations; record pay quantities in source document spreadsheet; record pay quantities into final quantity spreadsheet for verification of contractor monthly pay estimates.

Not included in Scope Not included in Scope

Total Task 2: 87 0



Task 3	Meetings - Conduct, Attend, and Document	WSP Design	
		Engineer and Staff	Inspector
	3a. Preconstruction Meeting - Support County PM in preparation of agenda; attend meeting. Meeting to be conducted and documented by others.	1	Included in Task#5 Hours
	3b. Weekly Contractor Meetings - Attend Meeting; Meeting agenda to be prepared, conducted and documented by others.	21	Included in Task#5 Hours
	3c. Pre-Paving Meeting - Support County PM in preparation of agenda; conduct meeting and attend. Meeting to be documented by others.	1	Included in Task#5 Hours
	3d. Pre-Bridge Erection Meeting - Support County PM in the preparation of agenda; conduct meeting, attend and document.	1	Included in Task#5 Hours
	3e. Special Issues/Other Meetings - prepare agenda, conduct, document, attend (2ea)	1	N/A
Total Task 3:		25	0

Task 4	Change Orders	WSP Design	
		Engineer and Staff	Inspector
	4a. Review Contractor submitted change orders; verify changes addressed; verify quantities and amounts; document change to contract amount; Recommend to County PM acceptance or changes needed. (Assume five change orders needed)	Not Included In Scope	Not Included in Scope
Total Task 4:		0	0

Task 5	Inspection of Work (part time)	WSP Design	
		Engineer and Staff	Inspector
	<p>Note: The WSP inspector will support the County PM in the inspection tasks as noted below while on-site given the limitations imposed by the 8hr/week part time inspection requested by Cibola County. Any inspection required in excess of the 8hr/week part time inspection limitation will be performed by others or will be performed by the WSP inspector upon authorization by the Cibola County Project Manager and payment will be addressed by contract modification.</p> <p>WSP part-time inspection hours = (8hr/wk)(21wks) =</p>		168
	5a. Verification of Contractor Compliance with plans and specs based on inspections performed while on-site.	Not in Scope	Support
	5b. Inspector will observe and document contractor construction activities while on-site and will prepare Daily Work Reports for submittal to the County PM documenting construction activity.	Not in Scope	Support
	5c. Inspector will support County PM in coordination and scheduling of materials testing & sampling	Not in Scope	Support
	5d. Inspector will support County PM in reporting, measuring and documentation of contract pay items; will record pay quantities in field source books; will coordinate pay quantities with Contractor on a weekly basis.	Not in Scope	Support
	5e. Inspector will support the coordination of project activities with the contractor and others as directed by the County PM to the extent practical given the part time nature of the project inspection.	Not in Scope	Support
	5f. Inspection of Traffic Control setups and SWPPP plan compliance while on-site. Verify contractor is updating documents; sign off on Traffic Control and SWPPP updates;	Not in Scope	Support
	5g. Inspection of subgrade construction, subgrade prep, placement and compaction for conformance to plans and specs while on-site.	Not in Scope	Support
	5h. Inspection of basecourse placement, compaction and prime coat placement for conformance to plans and specs while on-site; documentation of quantities placed; prepare yield reports, gather haul tickets; perform depth checks and prepare depth check reports.	Not in Scope	Support
	5i. Inspection of Hot Mix Asphalt placement and compaction for conformance to plans and specs while on site. Prepare yield reports for PM review and signature; gather haul tickets; verify surface tolerance requirements are met.	Not in Scope	Support
	5j. Inspection of drilled shaft construction for conformance to plans and specs; prepare drilled shaft reports; document obstruction encountered; verify plan depth reached.	Not in Scope	Support



5k. Inspection of concrete form construction; rebar placement; concrete placement; verification of concrete test results for entrained air, unit weight and slump; verify sampling of concrete test cylinders; prepare concrete reports for each concrete pour; measure and record pay quantities while on site.	Not in Scope	Support
5l. Support in Inspection of Bridge erection, bolt torquing for conformance to plans, specs and shop drawings.	Not in Scope	Support
5m. Inspection of Riprap placement; measure and record pay quantities while on site.	Not in Scope	Support
5n. Inspection of final signing and striping for conformance to plans and specs; measure and record pay quantities in source document books.	Not in Scope	Support
5o. Inspection of Misc Construction items for conformance to plans and specs; measure and record pay quantities in source document books.	Not in Scope	Support
5p. Notification of non-conforming work or safety concerns to Cibola County PM and contractor as observed.	Not in Scope	Support
5q. Perform EEO and Labor compliance interviews of contractor and subcontractor personnel while on-site; submit to Cibola County PM for verification.	Not in Scope	Support
5r. Perform inspection of contractor Bulletin Board using approved checklist; document and submit to Cibola County PM for recording and filing.	Not in Scope	Support

Total Task 5: Reg	0	168
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Task 6	Subcontractors	WSP Design Engineer and Staff	Inspector
6a. Quality Assurance and Independent Assurance Sampling and Testing to be completed by WSP and WSP Subcontractor. WSP will provide Coordination of scheduling sampling and testing.		Support	Included in Task #5 Hours
Materials testing as per subcontractor monthly invoice			
Total Task 6:		0	0

Task 7	Monthly Pay Requests - Review & Verify	WSP Design Engineer and Staff	Inspector
7a. Review, verify and evaluate monthly Contractor pay requests prepared by the Contractor; Provide County PM with recommendation of approval for payment.		Not Included in Scope	Not Included in Scope
Total Task 7:		0	0

Task 8	Substantial Completion	WSP Design Engineer and Staff	Inspector
8a. Support County PM to coordinate and Conduct Substantial Completion Inspection; prepare punch list items and follow up Report.		Not included in Scope	Included in Task #5 Hours
Total Task 8:		0	0

Task 9	Final Inspection and Project Close-Out	WSP Design Engineer and Staff	Inspector
9a. Support County PM to Prepare for, Coordinate, and Conduct Final Inspection		Not included in Scope	16
9a. Project close-out to be performed by others.		Not included in Scope	Not included in Scope
Total Task 9:		0	16

Grand Total Reg Hrs:	112	184
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7c. New Business

Proline Trail

Contract for Quartz Hill Trails-Direction to CM

DRAFT AIA® Document A141® - 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the 13 day of June in the year 2024
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Cibola County
700 E. Roosevelt Ave.
Suite 50
Grants, NM 87020

and the Design-Builder:
(Name, legal status, address and other information)

Proline Contracting, LLC DBA Proline Trails
4338 E. Fair Brook Circle
Mesa, AZ 85205

for the following Project:
(Name, location and detailed description)

Quartz Hill Trailhead 35.085267828992514, -108.0579678
State Road 57, Grants, NM 87020

The Owner and Design-Builder agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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2	COMPENSATION AND PROGRESS PAYMENTS
3	GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT
4	WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT
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TABLE OF EXHIBITS

A	DESIGN-BUILD AMENDMENT
B	INSURANCE AND BONDS
C	SUSTAINABLE PROJECTS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

See USDA Forest Service Design Documents, Maps, and Inspection Forms Included in RFP

§ 1.1.1 The Owner's program for the Project:

See USDA Forest Service Design Documents, Maps, and Inspection Forms Included in RFP

« »

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

See USDA Forest Service Design Documents, Maps, and Inspection Forms Included in RFP

« »

§ 1.1.3 The Project's physical characteristics:

See USDA Forest Service Design Documents, Maps, and Inspection Forms Included in RFP

« »

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§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™-2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

« »

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

« »

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

«\$265,810.35 »

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Design phase milestone dates:

« »

.2 Submission of Design-Builder Proposal:

« »

.3 Phased completion dates:

« »

.4 Substantial Completion date:

« »

.5 Other milestone dates:

« »

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

(List name, legal status, address and other information.)

.1 Architect

« »

.2 Consultants

« »

.3 Contractors

« »

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

« »

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

Judy Horacek-Projects Coordinator 505-285-2557 Edward Salazar-Road Superintendent 505-285-2573 Arnold Wilson-USDA, FS Project Oversight 505-287-8833 Russel Berman-Project Inspector-russell.berman@usda.gov

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

« »

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

« »

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

« »

« »

« »

« »

« »

« »

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten days' written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- ☐ Arbitration pursuant to Section 14.4
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other: *(Specify)*
- ☐

§ 1.4 Additional Definitions

The following definitions shall apply throughout the Bidding Documents or Contract Documents unless otherwise specified:

1. SURETY: The person or entity obligated to provide such performance or payment as set forth in bonds required by the Contract Documents.
2. UNIT PRICES: Amounts stated in the Contract as prices per unit of measurement for materials or services as described in the Contract Documents.
3. USER: The Owner agency or agencies or designated entity for whose use the Project is being constructed.
4. OWNER: [Sierra-Cibola](#) County referenced as Owner within these Documents.
5. RETAINAGE: The amount of money otherwise due to a Design-Builder that may be withheld by the Owner to secure performance of the Contract."

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

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§ 1.4.6 **Submittal.** A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Build proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 **Owner.** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 1.4.8 **Design-Builder.** The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Design-Builder” means the Design-Builder or the Design-Builder’s authorized representative.

§ 1.4.9 **Consultant.** A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 **Architect.** The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 **Contractor.** A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 **Confidential Information.** Confidential Information is information containing confidential or business proprietary information that is clearly marked as “confidential.”

§ 1.4.13 **Contract Time.** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 **Day.** The term “day” as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 **Contract Sum.** The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

~~PART 2.0 (Re: 1.4 BASIC DEFINITIONS) – ADD THE FOLLOWING SUBPARAGRAPH 1.4:~~

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder’s performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

« »

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder’s Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« »

Individual or Position

Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 All taxes levied on professional services and on reimbursable expenses; and
- .9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of « » percent (« » %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid « » (« ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

(Insert rate of monthly or annual interest agreed upon.)

« » % « »

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from

the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 **General Consultation.** The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 **Certifications.** Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services

provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless

such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the

Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

« »

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;
- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- .6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;
- .3 The proposed date the Design-Builder shall achieve Substantial Completion;
- .4 An enumeration of any qualifications and exclusions, if applicable;
- .5 A list of the Design-Builder's key personnel, Contractors and suppliers; and
- .6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 **Commencement.** Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

§ 5.3.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services, necessary for proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect. The Design-Builder shall comply with the requirements of the state of New Mexico gross receipts law and shall require all subcontractors to comply with the same. Any increase or decrease in gross receipts and local option taxes enacted after the date the Contract is signed shall result in a similar increase or decrease in the contract sum by appropriate modification.

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§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

§ 5.5.2 The Design-Builder shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, applicable to performance of the Work.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

§ 5.6.1 The Design-Builder shall include in the Contract Sum all allowances stated in the Design-Build Documents. Items covered by allowances shall be supplied for such amounts, and by such persons or entities as the Owner may direct, but the Design-Builder shall not be required to employ persons or entities to whom the Design-Builder has reasonable objection.

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new

personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3.1 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the rejected person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

The Design-Builder shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

The Design-Builder shall thoroughly clean the premises at the completion of the Work.

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Design-Builder shall remove waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

§ 5.13.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or

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operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term “Design-Builder” in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder’s construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder’s Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder’s Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner’s or separate contractor’s completed or partially completed construction is fit and proper to receive the Design-Builder’s Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder’s delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor’s delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner’s Right to Clean Up

If a dispute arises among the Design-Builder, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and will allocate the cost among those responsible.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

§ 6.3.2 A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Design-Build Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;

- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .6 Additional costs of supervision and field office personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or

elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not

be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. The Design-Builder agrees that the Work shall be prosecuted regularly, diligently and uninterruptedly at a rate of progress that will insure full completion within the Contract Time specified. It is expressly understood and agreed, by and between the Design-Builder and the Owner, that the Contract time specified for the completion of the Work is reasonable; taking into consideration the average climate conditions, temperature ranges, and usual industrial conditions prevailing in this locality. If the Design-Builder shall neglect, fail or refuse to complete the Work within the Contract Time, or any proper extension granted by the Owner, then the Design-Builder agrees, as a part consideration for the awarding of this Contract, not as a penalty but as liquidated damages for such breach of contract as set forth in the Contract Documents, for each and every calendar day that the Design-Builder shall be in default after the Contract Time

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§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine. Where individual items or designated

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portions of the Work require changes in completion time, but are not interrelated with items of work governed by the Contract Time, the Design-Builder and the Owner may establish by Change Order separate completion dates with separate Liquidated Damages acceptable to the Design-Builder and leave the Contract Time unchanged.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment. This schedule shall include separate line items for costs pertaining to each Cash Allowance item indicated in the Contract Documents and for a reasonable amount, which shall be designated as 'Final Administrative Closeout', attributable to Design-Builder completion of the administrative and documentation requirements for Contract Closeout following certification of Substantial Completion.

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§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.2.1 Retainage: Unless good cause exists, the Owner shall not withhold retainage from any payments due and owing to the Design-Builder.

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§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.
- .8 failure to provide an approved progress schedule.
- .9 the contract sum has been reduced by change order, and the payment request exceeds the revised Contract Sum.

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§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.5.4 The Owner may refuse to make payment of the full amount to protect itself from loss because of Subparagraphs 9.5.1.1 through 9.5.1.9, but the Owner must give the Design-Builder immediate written notice stating the reasons for such action.

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§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Design-Build Documents.

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

§ 9.11 Liquidated Damages

§ 9.11.1 The Design-Builder and the Design-Builder's surety shall be jointly and severally liable for and shall pay the Owner \$500.00/day as liquidated damages for each calendar day of delay until the work is substantially complete. Liquidated damages set forth in the Agreement will be assessed from the Contractor's scheduled completion date.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Design-Builder shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property, or their protection from damage, injury or loss.

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the

Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

§ 10.2.7 The Design-Builder shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 **Injury or Damage to Person or Property.** If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in

which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

§ 11.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other

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person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses

incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;

- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.1.5; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

§ 13.2.3.1 The Owner may, without cause, order the Design-Builder in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and,
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing Project agreements, including agreements with the Architect, Consultants, Contractors, and purchase orders, and enter into no further Project agreements and purchase orders.

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

§ 13.2.5 Termination for Lack of Appropriation. The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the governing body for the performance of this Contract. If sufficient appropriations are not made by the governing body, this Contract shall terminate upon written notice being given by the County to the Contractor. The County's determination as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

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ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 **Time Limits on Claims.** The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 **Prior To Final Payment.** Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 **Claims Arising After Final Payment.** After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 **Continuing Contract Performance.** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 **Claims for Additional Cost.** If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder’s Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation.

The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder

§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent

of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.7 Capitalization

Terms capitalized in the Contract include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 15.8 Interpretation

§ 15.8.1 In the interest of brevity the Design-Build Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™-2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™-2014, Exhibit B, Insurance and Bonds
- .4 AIA Document A141™-2014, Exhibit C, Sustainable Projects, if completed
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

« »

- .6 Other:

« »

✦ ADDITIONAL CONDITIONS ✦

PART 1.0 EQUAL OPPORTUNITY

1.1 The Design-Builder, all Subcontractors, and all Sub-subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Design-Builder shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, recruitment or recruitment advertising, upgrading, layoff or termination, demotion, rates of pay or other forms of compensation, transfer, selection for training (including apprenticeship)

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1.2 The Design-Builder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

1.3 The Design-Builder, all Subcontractors, and all Sub-subcontractors shall, in all solicitation or advertisement for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

PART 2.0 MINIMUM WAGE RATES

2.1 The Design-Builder warrants and agrees that it will comply and will require all Subcontractors and Sub-subcontractors to comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act as outlined in the Contract Documents. Wage rates are not applicable to projects costing less than \$20,000. The Contractor and his Subcontractors shall deliver by mail copies of certified weekly payroll in accordance with the regulations under "Minimum Wage Rates" to the office of the State Labor Commission, Santa Fe, New Mexico 87503, address as stated in the Determination and to the Owner.

PART 3.0 CONTRACT AUDIT

3.1 The Owner shall be entitled to audit the books and records of a Design-Builder or any Subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the Design-Builder for a period of three years from the date of final payment under the prime Contract and by the Subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing (§13-1-16 NMSA 1978).

PART 4.0 DEBARRED OR SUSPENDED CONTRACTORS

4.1 A business (Contractor, Subcontractor, or Supplier) that has either been debarred or suspended pursuant to the requirements of Sections 13-1-177 through 13-1-180, and 13-4-11 through 13-4-17 NMSA 1978, shall not be permitted to do business with the State and shall not be considered for award of contract during the period for which it is debarred or suspended.

PART 5.0 BRIBES, GRATUITIES, AND KICKBACKS

5.1 It is illegal in the State of New Mexico for any public employee to solicit or accept anything of value in connection with award of contract for this Bid and for any person to offer or pay anything of value to any such public employee (§ 30-24-1 and 30-24-2 NMSA 1978).

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

PART 6.0 NONRESIDENT DESIGN-BUILDER'S REQUIREMENTS: GROSS RECEIPTS TAX SURETY BOND

6.1 Section 7-1-55A NMSA 1978 provides that any person (as defined in § 7-1-3 NMSA 1978) engaged in the construction business who does not have his principal place of business in this state and enters into a prime construction contract to be performed in this State shall, at the time such contract is entered into, furnish the Director of the Revenue Division, Taxation and Revenue Department, or his delegate with a surety bond or other acceptable security in a sum equivalent to the gross receipts tax to be paid under the contract multiplied by the applicable rate of the gross receipts tax imposed by Section 7-9-4 NMSA 1978 to secure payment of the tax imposed on the gross receipts from the Contract. The person shall obtain a certificate from the Director of the Revenue Division, Taxation and Revenue Department, or his delegate that the requirements of this paragraph have been met.

6.2 If the total sum to be paid under the Contract is changed by ten percent (10%) or more after the date the surety bond or other acceptable security is furnished to the Director or his delegate, such person shall increase or decrease, as the case may be, the amount of the bond or security within 14 days after the change (§ 7-1-55B NMSA

1978).

6.3 In addition to the above requirements, the Contractor will be subject to all the requirements of Section 7-1-55 NMSA 1978.

PART 7.0 DESIGN-BUILDER'S GROSS RECEIPTS TAX REGISTRATION

7.1 Section 7-10-4 NMSA 1978 provides that any person (as defined in § 7-10-3 NMSA 1978) performing services for the State, as those terms are used in the Gross Receipts and Compensating Tax Act (§§ 7-10-1 through 7-10-5 NMSA 1978), must be registered and be issued an identification number with the Revenue Division of the Taxation and Revenue Department to pay the gross receipts tax.

7.2 The identification number is needed to properly complete the approval process of the Contract; therefore, so as to cause no delay in the processing, the Contractor must register with the Division. For information, contact: Revenue Division, Taxation and Revenue Department, Manuel Lujan Sr., Building, 1200 St. Francis Drive, Santa Fe, New Mexico 87503, Telephone: (505) 988-2290.

7.3 If any person who performs services for the State is not registered to pay the gross receipt tax, the State shall withhold payment of the amount due until the person has presented evidence of registration with the Revenue Division to pay the gross receipts tax.

PART 8.0 ASSIGNMENT OF ANTITRUST CLAIMS

8.1 The Design-Builder agrees that any and all claims that the Design-Builder may have or that may inure to the Design-Builder for overcharges resulting from antitrust violations as to goods, services, and materials purchased in connection with this Bid are hereby assigned to the State of New Mexico, but only to the extent that such overcharges are passed on to the State. The Design-Builder further agrees to require each of its Suppliers, Subcontractors, and Sub-subcontractors to assign any and all such claims for overcharges to the State by executing an assignment on the form provided by the Owner for such purpose. The executed form shall be submitted prior to the commencement of the Work or the supplying of any materials by the Supplier, Subcontractor, or Sub-subcontractor. The submission of this executed form may be waived by the Owner upon a showing of a good-faith effort by the Design-Builder to obtain agreement in writing from his Supplier, Subcontractor, or Sub-subcontractor. Waiver by the Owner may not unreasonably be denied.

8.2 It is agreed that the Design-Builder retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the State, including the right to any treble damages attributable thereto.

PART 9.0 CONTRACTS WITH NONRESIDENT PERSONS OR PARTNERSHIPS OR UNADMITTED FOREIGN CORPORATIONS; AGENT FOR SERVICE OF PROCESS

9.1 Special attention of Bidders is called to requirements of Sections 13-4-21 through 13-4-24 NMSA 1978, whereby a public works contract with a nonresident person or partnership or foreign corporation not authorized to do business in the State shall contain a specific provision designating an agent resident within the State, and his address, upon whom process and writs in any action or proceeding against such business may be served in any action arising out of such contract.

PART 10.0 ADDENDA AND MODIFICATIONS

10.1 All Addenda and Modifications issued in writing during the Bidding period will become part of the Contract Documents.

-End-

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

«»«»Kate Fletcher-Cibola County Manager

(Printed name and title)

DESIGN-BUILDER (Signature)

«»«»Kyle Jones, Owner/Operator, Proline Contracting, LLC DBA Proline Trails »

(Printed name and title)

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TEAR

DRAFT AIA® Document A141® – 2014

Exhibit A

Design-Build Amendment

This Amendment is incorporated into the accompanying AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder dated the «14» day of «June» in the year «2024» (the “Agreement”)
(In words, indicate day, month and year.)

for the following PROJECT:

(Name and location or address)

Quartz Hill Trailhead 35.085267828992514, -108.0579678
State Road 57, Grants, NM 87020

THE OWNER:

(Name, legal status and address)

Cibola County
700 E. Roosevelt Ave.
Suite 50
Grants, NM 87020

THE DESIGN-BUILDER:

(Name, legal status and address)

Proline Contracting, LLC DBA Proline Trails
4338 E. Fair Brook Circle
Mesa, AZ 85205

The Owner and Design-Builder hereby amend the Agreement as follows.

TABLE OF ARTICLES

A.1 CONTRACT SUM

A.2 CONTRACT TIME

A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

A.4 DESIGN-BUILDER’S PERSONNEL, CONTRACTORS AND SUPPLIERS

A.5 COST OF THE WORK

ARTICLE A.1 CONTRACT SUM

§ A.1.1 The Owner shall pay the Design-Builder the Contract Sum in current funds for the Design-Builder’s performance of the Contract after the execution of this Amendment. The Contract Sum shall be one of the following and shall not include compensation the Owner paid the Design-Builder for Work performed prior to execution of this Amendment:

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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(Check the appropriate box.)

☒ [«X»] Stipulated Sum, in accordance with Section A.1.2 below

☐ [« »] Cost of the Work plus the Design-Builder's Fee, in accordance with Section A.1.3 below

☐ [« »] Cost of the Work plus the Design-Builder's Fee with a Guaranteed Maximum Price, in accordance with Section A.1.4 below

(Based on the selection above, complete Section A.1.2, A.1.3 or A.1.4 below.)

§ A.1.2 Stipulated Sum

§ A.1.2.1 The Stipulated Sum shall be « two hundred thousand eight hundred and ten and thirty five cents » (\$265,810.35), subject to authorized adjustments as provided in the Design-Build Documents. Stipulated Sum includes New Mexico Gross Receipts Tax Rate at the current rate of 6.5625%, should this Rate change during the contract duration, a change order will be processed for the difference.

§ A.1.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in Stipulated Sum for each and the deadline by which the alternate must be accepted.)

«N/A »

§ A.1.2.3 Unit prices, if any:

(Identify item, state the unit price, and state any applicable quantity limitations.)

Item

Units and Limitations

Price per Unit (\$0.00)

§ A.1.3 Cost of the Work Plus Design-Builder's Fee

§ A.1.3.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.3.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee, and the method for adjustment to the Fee for changes in the Work.)

« »

§ A.1.4 Cost of the Work Plus Design-Builder's Fee With a Guaranteed Maximum Price

§ A.1.4.1 The Cost of the Work is as defined in Article A.5, Cost of the Work.

§ A.1.4.2 The Design-Builder's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method for adjustment to the Fee for changes in the Work.)

« »

§ A.1.4.3 Guaranteed Maximum Price

§ A.1.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed « » (\$ « »), subject to additions and deductions for changes in the Work as provided in the Design-Build Documents. Costs that would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

(Insert specific provisions if the Design-Builder is to participate in any savings.)

« »

§ A.1.4.3.2 Itemized Statement of the Guaranteed Maximum Price

Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Design-Builder's Fee, and other items that comprise the Guaranteed Maximum Price.

(Provide information below or reference an attachment.)

« »

§ A.1.4.3.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the Owner is permitted to accept other alternates subsequent to the execution of this Amendment, attach a schedule of such other alternates showing the change in the Cost of the Work and Guaranteed Maximum Price for each and the deadline by which the alternate must be accepted.)

« »

§ A.1.4.3.4 Unit Prices, if any:

(Identify item, state the unit price, and state any applicable quantity limitations.)

Item	Units and Limitations	Price per Unit (\$0.00)
« »		

§ A.1.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

« »

§ A.1.5 Payments

§ A.1.5.1 Progress Payments

§ A.1.5.1.1 Based upon Applications for Payment submitted to the Owner by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

§ A.1.5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

«Applications for Payment shall only be made upon USFS confirmation of completion of each segment of trail.

§ A.1.5.1.3 Provided that an Application for Payment is received not later than the «31st» day of the month, the Owner shall make payment of the certified amount to the Design-Builder not later than the «Fifteenth» day of the «Following» month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than «Fifteen» («15 ») days after the Owner receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ A.1.5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ A.1.5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services, if any, shall be shown separately. Where the Contract Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall

be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ A.1.5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections A.1.5.1.4 or A.1.5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ A.1.5.1.7 Except with the Owner's prior approval, the Design-Builder shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ A.1.5.2 Progress Payments—Stipulated Sum

§ A.1.5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ A.1.5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of «zero» percent («0» %) on the Work. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of «zero» percent («0» %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, the Owner has withheld or nullified, as provided in Section 9.5 of the Agreement.

§ A.1.5.2.3 The progress payment amount determined in accordance with Section A.1.5.2.2 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section 9.8.6 of the Agreement discusses release of applicable retainage upon Substantial Completion of Work.)
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section 9.10.3 of the Agreement.

§ A.1.5.2.4 Reduction or limitation of retainage, if any, shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections A.1.5.2.2.1 and A.1.5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert provisions here for such reduction or limitation.)

« »

§ A.1.5.3 Progress Payments—Cost of the Work Plus a Fee

§ A.1.5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ A.1.5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Article A.5 of this Amendment;
- .2 Add the Design-Builder's Fee, less retainage of «**■**» percent («**■**» %). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section A.1.5.3.2.1 at the rate stated in Section A.1.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that Section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in that Section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of «**■**» percent («**■**» %) from that portion of the Work that the Design-Builder self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate of Payment as provided in the Section 9.5 of the Agreement.

§ A.1.5.3.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on agreements with the Architect, Consultants, and Contractors, and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.4 Progress Payments—Cost of the Work Plus a Fee with a Guaranteed Maximum Price

§ A.1.5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ A.1.5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 6.3.9 of the Agreement.
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Design-Builder's Fee, less retainage of «**■**» percent («**■**» %). The Design-Builder's Fee shall be computed upon the Cost of the Work at the rate stated in Section A.1.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .4 Subtract retainage of «**■**» percent («**■**» %) from that portion of the Work that the Design-Builder self-performs;
- .5 Subtract the aggregate of previous payments made by the Owner;
- .6 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section A.1.5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .7 Subtract amounts, if any, for which the Owner has withheld or nullified a payment as provided in Section 9.5 of the Agreement.

§ A.1.5.4.3 The Owner and Design-Builder shall agree upon (1) a mutually acceptable procedure for review and approval of payments to the Architect, Consultants, and Contractors and (2) the percentage of retainage held on

agreements with the Architect, Consultants, and Contractors; and the Design-Builder shall execute agreements in accordance with those terms.

§ A.1.5.5 Final Payment

§ A.1.5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder not later than 30 days after the Design-Builder has fully performed the Contract and the requirements of Section 9.10 of the Agreement have been satisfied, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

§ A.1.5.5.2 If the Contract Sum is based on the Cost of the Work, the Owner's auditors will review and report in writing on the Design-Builder's final accounting within 30 days after the Design-Builder delivers the final accounting to the Owner. Based upon the Cost of the Work the Owner's auditors report to be substantiated by the Design-Builder's final accounting, and provided the other conditions of Section 9.10 of the Agreement have been met, the Owner will, within seven days after receipt of the written report of the Owner's auditors, either issue a final Certificate for Payment, or notify the Design-Builder in writing of the reasons for withholding a certificate as provided in Section 9.5.1 of the Agreement.

ARTICLE A.2 CONTRACT TIME

§ A.2.1 Contract Time, as defined in the Agreement at Section 1.4.13, is the period of time, including authorized adjustments, for Substantial Completion of the Work.

§ A.2.2 The Design-Builder shall achieve Substantial Completion of the Work not later than [insert date] » days from the date of this Amendment, or as follows:

(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)

«

Portion of Work	Substantial Completion Date
95%	MARCH 31, 2025

, subject to adjustments of the Contract Time as provided in the Design-Build Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

«Should the Design-Builder neglect, refuse or otherwise fail to complete the Work within the time specified for Substantial Completion, the Design-Builder agrees, in partial consideration for the award of this Contract, to pay to the Owner the amount of one-thousand five hundred dollars (\$1,500.00) per consecutive calendar day, not as a penalty, but as liquidated damages for such breach of this contract. »

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Contract Sum and Contract Time set forth in this Amendment are based on the following:

§ A.3.1.1 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

§ A.3.1.2 The Specifications:

(Either list the specifications here or refer to an exhibit attached to this Amendment.)

« Included within Attachment B Cibola County Quartz Hill Trail Construction

Section	Title	Date	Pages
---------	-------	------	-------

§ A.3.1.3 The Drawings:

(Either list the drawings here or refer to an exhibit attached to this Amendment.)

Number	Title	Date
« »		

§ A.3.1.4 The Sustainability Plan, if any:

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Design-Builder's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
«N/A »		

Other identifying information:

«There is no formal sustainability goal or program required for this project. »

§ A.3.1.5 Allowances and Contingencies:

(Identify any agreed upon allowances and contingencies, including a statement of their basis.)

.1 Allowances

«N/A

.2 Contingencies

«N/A

§ A.3.1.6 Design-Builder's assumptions and clarifications:

«

§ A.3.1.7 Deviations from the Owner's Criteria as adjusted by a Modification:

«

§ A.3.1.8 To the extent the Design-Builder shall be required to submit any additional Submittals to the Owner for review, indicate any such submissions below:

«Requests for Payments shall be submitted only when Forest Service has Inspected and Approved a Completed Segment. Forest Service Approved Inspection Report must be submitted with payment. The Last Payment Request may be Submitted per Mile after Inspection and Approval by the Forest Service

ARTICLE A.4 DESIGN-BUILDER'S PERSONNEL, CONTRACTORS AND SUPPLIERS

§ A.4.1 The Design-Builder's key personnel are identified below:

(Identify name, title and contact information.)

.1 Superintendent

« »

.2 Project Manager

«

.3 Others

§ A.4.2 The Design-Builder shall retain the following Consultants, Contractors and suppliers, identified below:
(List name, discipline, address and other information.)

ARTICLE A.5 COST OF THE WORK

§ A.5.1 Cost To Be Reimbursed as Part of the Contract

§ A.5.1.1 Labor Costs

§ A.5.1.1.1 Wages of construction workers directly employed by the Design-Builder to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.5.1.1.2 With the Owner's prior approval, wages or salaries of the Design-Builder's supervisory and administrative personnel when stationed at the site.

(If it is intended that the wages or salaries of certain personnel stationed at the Design-Builder's principal or other offices shall be included in the Cost of the Work, identify below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person Included	Status (full-time/part-time)	Rate (\$0.00)	Rate (unit of time)
« »			

§ A.5.1.1.3 Wages and salaries of the Design-Builder's supervisory or administrative personnel engaged at factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.5.1.1.4 Costs paid or incurred by the Design-Builder for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.5.1.1.

§ A.5.1.1.5 Bonuses, profit sharing, incentive compensation and any other discretionary payments paid to anyone hired by the Design-Builder or paid to the Architect or any Consultant, Contractor or supplier, with the Owner's prior approval.

§ A.5.1.2 Contract Costs. Payments made by the Design-Builder to the Architect, Consultants, Contractors and suppliers in accordance with the requirements of their subcontracts.

§ A.5.1.3 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.5.1.3.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.5.1.3.2 Costs of materials described in the preceding Section A.5.1.3.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.1.4 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.5.1.4.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Design-Builder shall mean fair market value.

§ A.5.1.4.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Design-Builder at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Design-Builder-owned item may not exceed the

purchase price of any comparable item. Rates of Design-Builder-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ A.5.1.4.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.5.1.4.4 Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office.

§ A.5.1.4.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

§ A.5.1.5 Miscellaneous Costs

§ A.5.1.5.1 Premiums for that portion of insurance and bonds required by the Design-Build Documents that can be directly attributed to the Contract. With the Owner's prior approval self-insurance for either full or partial amounts of the coverages required by the Design-Build Documents.

§ A.5.1.5.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Design-Builder is liable.

§ A.5.1.5.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Design-Builder is required by the Design-Build Documents to pay.

§ A.5.1.5.4 Fees of laboratories for tests required by the Design-Build Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 15.5.3 of the Agreement or by other provisions of the Design-Build Documents, and which do not fall within the scope of Section A.5.1.6.3.

§ A.5.1.5.5 Royalties and license fees paid for the use of a particular design, process or product required by the Design-Build Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Design-Build Documents; and payments made in accordance with legal judgments against the Design-Builder resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Design-Builder's Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the second to last sentence of Section 3.1.13.2 of the Agreement or other provisions of the Design-Build Documents, then they shall not be included in the Cost of the Work.

§ A.5.1.5.6 With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.

§ A.5.1.5.7 Deposits lost for causes other than the Design-Builder's negligence or failure to fulfill a specific responsibility in the Design-Build Documents.

§ A.5.1.5.8 With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Design-Builder, reasonably incurred by the Design-Builder after the execution of the Agreement and in the performance of the Work.

§ A.5.1.5.9 With the Owner's prior approval, expenses incurred in accordance with the Design-Builder's standard written personnel policy for relocation, and temporary living allowances of, the Design-Builder's personnel required for the Work.

§ A.5.1.5.10 That portion of the reasonable expenses of the Design-Builder's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.5.1.6 Other Costs and Emergencies

§ A.5.1.6.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ A.5.1.6.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

§ A.5.1.6.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Design-Builder, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Design-Builder and only to the extent that the cost of repair or correction is not recovered by the Design-Builder from insurance, sureties, Contractors, suppliers, or others.

§ A.5.1.7 Related Party Transactions

§ A.5.1.7.1 For purposes of Section A.5.1.7, the term “related party” shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Design-Builder; any entity in which any stockholder in, or management employee of, the Design-Builder owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Design-Builder. The term “related party” includes any member of the immediate family of any person identified above.

§ A.5.1.7.2 If any of the costs to be reimbursed arise from a transaction between the Design-Builder and a related party, the Design-Builder shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Design-Builder shall procure the Work, equipment, goods or service from the related party, as a Contractor, according to the terms of Section A.5.4. If the Owner fails to authorize the transaction, the Design-Builder shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.5.4.

§ A.5.2 Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Design-Builder's personnel stationed at the Design-Builder's principal office or offices other than the site office, except as specifically provided in Section A.5.1.1;
- .2 Expenses of the Design-Builder's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Section A.5.1;
- .4 The Design-Builder's capital expenses, including interest on the Design-Builder's capital employed for the Work;
- .5 Except as provided in Section A.5.1.6.3 of this Agreement, costs due to the negligence or failure of the Design-Builder, Contractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Section A.5.1; and
- .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.5.3 Discounts, Rebates, and Refunds

§ A.5.3.1 Cash discounts obtained on payments made by the Design-Builder shall accrue to the Owner if (1) before making the payment, the Design-Builder included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Design-Builder with which to make payments; otherwise, cash discounts shall accrue to the Design-Builder. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Design-Builder shall make provisions so that they can be obtained.

§ A.5.3.2 Amounts that accrue to the Owner in accordance with Section A.5.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.5.4 Other Agreements

§ A.5.4.1 When the Design-Builder has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Design-Builder; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Design-Build Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Design-Builder may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Design-Builder and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.5.4.2 Agreements between the Design-Builder and Contractors shall conform to the applicable payment provisions of the Design-Build Documents, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If an agreement between the Design Builder and a Contractor is awarded on a cost plus a fee basis, the Design-Builder shall provide in the agreement for the Owner to receive the same audit rights with regard to the Cost of the Work performed by the Contractor as the Owner receives with regard to the Design-Builder in Section A.5.5, below.

§ A.5.4.3 The agreements between the Design-Builder and Architect and other Consultants identified in the Agreement shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request.

§ A.5.5 Accounting Records

The Design-Builder shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under the Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Design-Builder's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Contractor's proposals, purchase orders, vouchers, memoranda and other data relating to the Contract. The Design-Builder shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ A.5.6 Relationship of the Parties

The Design-Builder accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to exercise the Design-Builder's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests.

This Amendment to the Agreement entered into as of the day and year first written above.

« »

OWNER *(Signature)*

Kate Fletcher, Cibola County Manager

(Printed name and title)

« »

DESIGN-BUILDER *(Signature)*

« Kyle Jones, Owner/Operator, Proline Contracting, LLC DBA Proline Trails »

(Printed name and title)



VETERAN OWNED AND OPERATED

Proposal for:

Quartz Hill Trail System

RFP No. 2024-004

Prepared by Kyle Jones, owner/operator

Proline Contracting LLC Do Business as Proline Trails

Mesa, AZ

C: 480-318-5577 Email: prolinetrails@outlook.com

ProlineTrails.com

SERVING THE SOUTHWEST SINCE 1992

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PROPOSAL OF OFFEROR

THIS FORM MUST BE COMPLETED AND RETURNED BY ALL OFFERORS

*** Do not reference another section within your Proposal Offer as a response.**

The following proposal is made for furnishing the following service for Cibola County, New Mexico.

RFP 2024-004, for the Quartz Hill Trail System Construction

The undersigned declares that the amount and nature of the service to be furnished is understood and that the nature of this proposal is in strict accordance with the conditions set forth and is a part of this Proposal, and that the undersigned Offeror has read and understands the specifications and conditions of the Proposal.

The undersigned, in submitting this proposal, represents that the Offeror is an equal opportunity employer, and will not discriminate with regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition as specified in N.M.S.A. 1978, §§ 28-1-7 (as amended) in the performance of this contract.

The undersigned hereby proposes to perform necessary professional services upon the conditions stated in this proposal after notice of award and execution of a contract.

- If applicable, acknowledges receipt of the following Addendum(s):

Addendum No: 2 Date: 5/1/2024

Addendum No: _____ Date: _____

Respectfully submitted,

By (Individual authorized to contractually bind the Offeror):

Kyle Jones
(Printed Name)

Kyle Jones
(Signature)

Owner
(Title)

5/1/2024
(Date)

Proline Trails
(Offeror/Contractor Name)

4338 E. Fairbrook Cir
(Street Address)

Mesa, AZ 85205
(City, State & Zip Code)

prolinetrails@outlook.com
(E-Mail Address)

480-318-5577
(Phone No.)

n/a
(Facsimile No.)

ACKNOWLEDGEMENT OF RECEIPT FORM

RFP NO. 2024-004

BUILD SERVICES for the Quartz Hill Trail System Construction

28 PAGES (INCLUDING ACKNOWLEDGEMENT, CAMPAIGN DISCLOSURE FORM and EXHIBITS A).

NOTE: ONLY POTENTIAL OFFERORS WHO COMPLETE AND RETURN THIS FORM WILL RECEIVE COPIES OF ADDENDUMS, IF ISSUED.

PROPOSAL INFORMATION:

In acknowledgement of receipt of the above referenced Proposal Packet, the undersigned agrees that he/she has received a complete copy.

Proline Trails

OFFEROR NAME

Kyle Jones

SIGNATURE OF AUTHORIZED REPRESENTATIVE

Kyle Jones

PRINTED NAME OF AUTHORIZED REPRESENTATIVE

ADDRESS: 4338 E. Fairbrook Cir

CITY: Mesa STATE: AZ ZIP CODE: 85205

PHONE NO.: 480-318-5577 FAX NO.: none

E-MAIL: prolinetrails@outlook.com

RETURN TO:

Wendy Self

Chief of Procurement

PHONE 505-285-2513

FAX 505-285-5434

Wendy.self@co.cibola.nm.us

Faxed copies of the Acknowledgement of Receipt Form will be accepted.
Faxed Proposal responses **WILL NOT** be accepted.

B. Qualifications/ Resumes

A. Trail Crew Lead: Kyle Jones, owner of Proline Trails

B. Trail Crew size for Quartz Hill Project 2-3

-Resume: Owner/ Operator of Proline Trails, Kyle Jones

-30 years experience in construction industry

-5+ years trail building experience

- 25+ miles of new trail construction/ maintenance

2) Capacity and Capability

A. Proline Trails currently awaiting the start of other trail projects due to wildlife restriction, that will expire 1 September. Due to these restrictions, we are able to begin work on the Quartz Hill Project immediately upon approval of contract.

B. Scope of Work: 2 mini excavators will be used to construct requested trail. Depending on conditions/terrain other equipment may be used, ex. Skid steer or Trail dozer.

3) Past Performance

1. Arizona Trail, Passage 16 Trail Maintenance

-13 miles of moderate trail maintenance to include tread improvements/ repair, drainage construction, grade reversals, clearing of trail corridor.

-Project Cost: \$57,288

-Matt Nelson, Arizona Trail Exec. Director, C: 520-404-7992

2. Highline Trail, Tonto Nat'l Forest, Payson, AZ, New Trail Construction/Maintenance

-5+ miles of new trail construction and maintenance

-Project Cost: \$50,000+

-Angie Abel, Tonto Nat'l Forest, C: 304-646-8805

4) Familiarity with Cibola County

-Proline Trails is very familiar with the local area where Quartz Hill Trail System is located. Owner has lived in several cities across New Mexico to include Rio Rancho, NM.

- Proline Trails is a licensed contractor in the State of Arizona. Proline is capable of obtaining a New Mexico contractor's license upon award of this proposal if needed.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/1/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Professionals of Arizona 3521 E Brown Rd. Ste 101 Mesa AZ 85213	CONTACT NAME: Kirsten Walters PHONE (A/C, No, Ext): (480) 981-6338 FAX (A/C, No): (480) 981-6339 E-MAIL ADDRESS: kirsten@insuranceproaz.com																					
INSURED PROLINE CONTRACTING LLC 4338 E FAIRBROOK CIR MESA AZ 85205-5103	<table><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A:</td><td>SELECTIVE INS CO OF THE SOUTHEAST</td><td>39926</td></tr><tr><td>INSURER B:</td><td>Wellfleet New York Insurance Company</td><td>15156</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	SELECTIVE INS CO OF THE SOUTHEAST	39926	INSURER B:	Wellfleet New York Insurance Company	15156	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			S 2502595	06/01/2023	06/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y	N/A	ARX10765100	09/28/2023	09/28/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	LEASED AND RENTED EQUIPMENT			S 2502595	06/01/2023	06/01/2024	LIMIT \$250,000 DEDUCTIBLE \$1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate of insurance issued as evidence of insurance

CERTIFICATE HOLDER**CANCELLATION**

EVIDENCE OF INSURANCE

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Kirsten Walters

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CERTIFICATE OF LIABILITY INSURANCE

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COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
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	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> Y <input type="checkbox"/> N/A	N/A	ARX10765100	09/28/2023	09/28/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE OF INSURANCE ISSUED AS CONFIRMATION OF WORK COMP INSURANCE POLICY

CERTIFICATE HOLDER**CANCELLATION**

EVIDENCE OF INSURANCE	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Kirsten Walters

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any other private legal entity.

"Prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

"Representative of a prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

Business Name

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

1516 Jover
Signature

4/30/2024
Date

Owner
Title (Position)

Proline Trails
Business Name



7d. (1) New Business


Requisitions Over
\$20,000

10 yrs.-10 certs. for Tasers, Dash & Body
Cameras/Axon/Sheriff

\$923,062.27

DATE :	DEPARTMENT:	QUOTE OBTAINED BY:	
May 13, 2024	Sheriff Dept.	Larry Diaz	
	QUOTE #1	QUOTE #2	QUOTE #3
VENDOR NAME:	Axon Enterprises, Inc.		
CONTACT NAME:			
PHONE:	1-800-978-2737		
FAX:			

SUBTOTAL FOR SELECTED ITEMS	\$	923,062.27		-	-
TOTAL LABOR/ SERVICE COSTS	\$	-		-	-
TOTAL GROSS RECEIPTS TAX	\$	-		-	-
TOTAL SHIPPING/ FREIGHT COSTS				-	-
GRAND TOTAL	\$	923,062.27		-	-

VENDOR	Axon Enterprises, Inc.	REASON SELECTED	STATE CONTRACT		
ADDRESS	17800 N 85st Scottsdale, AZ 85255	CONTRACT/BID/RFP #	40-00000-23-00004		
PURCHASING AGENT		ESTIMATED DELIVERY			
ENDORSEMENT		PURCHASE ORDER #			
<p>With my signature, I hereby certify that all goods/services requested are necessary to properly conduct the operations of this department, and that all procurement has been conducted according to purchasing policies approved by the Cibola County Board of Commissioners.</p>	<p>If all three signatures are not obtained the purchase cannot move forward</p>	FUND NAME & LINE ITEM #	AMOUNT		
			\$ 923,032.27		
		401-005-408-000124			
		CONTRATL SERVICES			
		DEPARTMENT HEAD SIGNATURE	DESIGNEE SIGNATURE	FINANCE SIGNATURE	

PLEASE REMEMBER ANY REQUISITIONS OVER \$500.00 NOW REQUIRE 3 HARD QUOTES. ANY REQUISITION \$10,000.00 OR MORE WILL NEED TO GO ON THE AGENDA FOR COMMISSION APPROVAL. IF USING STATE CONTRACT PLEASE LIST CONTRACT # ABOVE AS WELL AS THE FIRST 4 PAGES OF THE STATE CONTRACT, OTHERWISE IT WILL BE SENT BACK



Axon Enterprise, Inc.
17800 N 85th St.
Scottsdale, Arizona 85255
United States
VAT: 86-0741227
Domestic: (800) 978-2737
International: +1.800.978.2737

Q-569719-45425.635SR

Issued: 05/13/2024

Quote Expiration: 05/31/2024

Estimated Contract Start Date: 06/15/2024

Account Number: 141787

Payment Terms: N30

Delivery Method:

SHIP TO

Cibola County Sheriff's Dept. - NM
700 E Roosevelt Ave
Grants,
NM
87020-2220
USA

BILL TO

Cibola County Sheriff's Dept. - NM
700 E Roosevelt Ave
Grants
NM
87020-2220
USA
Email:

SALES REPRESENTATIVE

Chandler Smith
Phone: 480 - 716 - 7245
Email: chasmith@axon.com
Fax:

PRIMARY CONTACT

Jeff Mayers
Phone: (505) 287-6940
Email: jmayers1328@yahoo.com
Fax: (505) 290-6992

Quote Summary

Program Length
TOTAL COST
ESTIMATED TOTAL W/ TAX

Discount Summary

Average Savings Per Year
TOTAL SAVINGS

Payment Summary

Date	Subtotal	Tax	Total
Jun 2024	\$6,361.20	\$500.94	\$6,862.14
Nov 2024	(\$56,456.14)	(\$3,688.41)	(\$60,144.55)
Nov 2025	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2026	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2027	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2028	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2029	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2030	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2031	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2032	\$103,427.58	\$5,055.16	\$108,482.74
Nov 2033	\$103,427.58	\$5,055.18	\$108,482.76
Total	\$880,753.28	\$42,308.99	\$923,062.27

Quote Unbundled Price: \$1,368,284.00
 Quote List Price: \$1,206,346.40
 Quote Subtotal: \$880,753.28

Pricing

All deliverables are detailed in Delivery Schedules section lower in proposal

Item	Program	Description	Qty	Term	Unbundled	List Price	Net Price	Subtotal	Tax	Total
100553	Program	TRANSFER CREDIT - SOFTWARE AND SERVICES	1			\$1.00	(\$111,029.48)	(\$111,029.48)	(\$8,743.57)	(\$119,773.05)
100552		TRANSFER CREDIT - GOODS	1			\$1.00	(\$48,854.24)	(\$48,854.24)	\$0.00	(\$48,854.24)
Fleet3ARe		Fleet 3 Advanced Renewal	23	60		\$189.57	\$189.57	\$261,606.60	\$16,062.79	\$277,669.39
Fleet3A10Yr		BUNDLE - TASER 10 CERTIFICATION 10YR	7	120	\$231.35	\$248.53	\$225.84	\$189,705.60	\$9,760.65	\$199,466.25
C00011		BUNDLE - TASER 10 CERTIFICATION 10YR	25	120	\$104.33	\$90.05	\$73.51	\$220,530.00	\$3,557.87	\$224,087.87
BWCamTAP10Yr		Body Worn Camera TAP 10 Year Bundle	25	120	\$43.47	\$37.46	\$37.46	\$112,380.00	\$2,270.81	\$114,650.81
BWCamSBDTAP10Yr		Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	120	\$13.33	\$13.75	\$13.75	\$3,300.00	\$89.94	\$3,389.94
BWCamHBDTAP10Yr		Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	120	\$78.27	\$39.98	\$39.98	\$9,595.20	\$169.42	\$9,764.62
A la Carte Hardware										
H00003		ABA 1-Bay Dock Bundle	2			\$229.00	\$229.00	\$458.00	\$0.00	\$458.00
H00002		ABA Multi Bay Dock Bundle	2		\$1,638.90	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
H00001		ABA Camera Bundle	25		\$849.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
A la Carte Software										
80402		AXON RESPOND - LICENSE - FLEET 3	23	6		\$15.60	\$0.00	\$0.00	\$0.00	\$0.00
80403		AXON EVIDENCE - FLEET VEHICLE LICENSE	23	6		\$20.80	\$0.00	\$0.00	\$0.00	\$0.00
80401		AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	23	6		\$59.00	\$0.00	\$0.00	\$0.00	\$0.00
80410		AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	49	6		\$17.70	\$0.00	\$0.00	\$0.00	\$0.00
73683		AXON EVIDENCE - STORAGE - 10GB A LA CARTE	178	6		\$0.60	\$0.60	\$640.80	\$50.46	\$691.26
73746		AXON EVIDENCE - ECOM LICENSE - PRO	3	6		\$40.00	\$40.00	\$120.00	\$56.70	\$176.70
73682		AXON EVIDENCE - AUTO TAGGING LICENSE	20	6		\$10.00	\$10.00	\$1,200.00	\$94.50	\$1,294.50
73840		AXON EVIDENCE - ECOM LICENSE - BASIC	19	6		\$15.00	\$15.00	\$1,710.00	\$134.66	\$1,844.66
73682		AXON EVIDENCE - AUTO TAGGING LICENSE	25	120		\$12.12	\$12.12	\$36,360.00	\$2,863.34	\$39,223.34
73680		AXON RESPOND PLUS - LICENSE	25	120		\$23.99	\$23.99	\$71,570.00	\$5,667.64	\$77,237.64
73685		AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	120		\$30.29	\$30.29	\$90,870.00	\$7,156.01	\$98,026.01
Pro license		Pro License Bundle	6	120		\$48.47	\$48.02	\$34,574.40	\$2,722.73	\$37,297.13
Basic license		Basic License Bundle	24	120		\$18.17	\$0.00	\$0.00	\$0.00	\$0.00
A la Carte Services										
101208		AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1			\$2,500.00	\$2,500.00	\$2,500.00	\$196.88	\$2,696.88
A la Carte Warranties										
73390		AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	51		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
80385		AXON FLEET 3 - EXT WARRANTY - INTERIOR CAMERA	3	6		\$2.20	\$0.00	\$0.00	\$0.00	\$0.00
80379		AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	23	6		\$1.25	\$0.00	\$0.00	\$0.00	\$0.00
80495		AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	23	6		\$9.35	\$0.00	\$0.00	\$0.00	\$0.00
11641		AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1			\$213.00	\$213.00	\$213.00	\$16.77	\$229.77
11641		AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1			\$213.00	\$213.00	\$213.00	\$16.77	\$229.77
80498		AXON BODY 3 - EXT WARRANTY - EIGHT BAY DOCK	2	6		\$21.70	\$21.70	\$260.40	\$20.51	\$280.91

80496	AXON BODY 3 - EXT WARRANTY - CAMERA	25	6	\$12.20	\$12.20	\$1,830.00	\$144.11	\$1,974.11
Total						\$880,753.28	\$42,308.99	\$923,062.27

Delivery Schedule

Hardware

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
AB4 1-Bay Dock Bundle	100201	AXON BODY 4 - DOCK - SINGLE BAY	2	1	11/01/2024
AB4 1-Bay Dock Bundle	71104	AXON - DOCK/DATA/PORT POWERCORD - NORTH AMERICA	2	1	11/01/2024
AB4 Camera Bundle	100147	AXON BODY 4 - CAMERA - NA US FIRST RESPONDER BLK RAPID LOCK	25	1	11/01/2024
AB4 Camera Bundle	100466	AXON BODY 4 - CABLE - USB-C TO USB-C	28	1	11/01/2024
AB4 Camera Bundle	74028	AXON BODY - MOUNT - WING CLIP RAPID LOCK	28	1	11/01/2024
AB4 Multi Bay Dock Bundle	100206	AXON BODY 4 - DOCK - EIGHT BAY	2	1	11/01/2024
AB4 Multi Bay Dock Bundle	70033	AXON - DOCK WALL MOUNT - BRACKET ASSY	2	1	11/01/2024
AB4 Multi Bay Dock Bundle	71019	AXON BODY - DOCK POWERCORD - NORTH AMERICA	2	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100390	AXON TASER 10 - HANDLE - YELLOW CLASS 3R	2	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100393	AXON TASER 10 - MAGAZINE - LIVE DUTY BLACK	25	2	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100394	AXON TASER 10 - MAGAZINE - HALT TRAINING BLUE	25	2	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100395	AXON TASER 10 - MAGAZINE - LIVE TRAINING PURPLE	4	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100396	AXON TASER 10 - MAGAZINE - INERT RED	3	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100399	TASER 10 LIVE CARTRIDGE	25	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100400	AXON TASER 10 - CARTRIDGE - HALT	500	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100401	AXON TASER 10 - CARTRIDGE - INERT	150	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100611	AXON TASER 10 - SAFARILAND HOLSTER - RH	150	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100623	AXON TASER - TRAINING - ENHANCED HALT SUIT V2	25	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	20018	AXON TASER - BATTERY PACK - TACTICAL	1	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	70033	AXON TASER - BATTERY PACK - TACTICAL	25	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	71019	AXON - DOCK WALL MOUNT - BRACKET ASSY	5	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	74200	AXON BODY - DOCK POWERCORD - NORTH AMERICA	1	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	80087	AXON TASER - DOCK - SIX BAY PLUS CORE	1	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	80090	AXON TASER - TARGET - CONDUCTIVE PROFESSIONAL RUGGEDIZED	1	1	11/01/2024
Fleet 3 Advanced 10 Year	11634	AXON FLEET - TARGET FRAME - PROFESSIONAL 27.5 IN X 7.5 IN	7	1	11/01/2024
Fleet 3 Advanced 10 Year	70112	AXON FLEET - CRADLEPOINT IBR900M-1200M-B-NPS-5YR NETCLOUD	7	1	11/01/2024
Fleet 3 Advanced 10 Year	71200	AXON SIGNAL - SIGNAL UNIT	7	1	11/01/2024
Fleet 3 Advanced 10 Year	72034	AXON FLEET - AIRGAIN ANT - 5-IN-1 2LTE 2WIFI 1GNSS BL	7	1	11/01/2024
Fleet 3 Advanced 10 Year	72036	AXON FLEET 3 - SIM INSERTION - VZW	7	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100399	AXON FLEET 3 - STANDARD 2 CAMERA KIT	7	1	11/01/2024
BUNDLE - TASER 10 CERTIFICATION 10YR	100400	TASER 10 LIVE CARTRIDGE	80	1	11/01/2025
BUNDLE - TASER 10 CERTIFICATION 10YR	100399	AXON TASER 10 - CARTRIDGE - HALT	200	1	11/01/2025
BUNDLE - TASER 10 CERTIFICATION 10YR	100400	TASER 10 LIVE CARTRIDGE	70	1	11/01/2026
Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	73689	AXON TASER 10 - CARTRIDGE - HALT	200	1	11/01/2026
Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	73313	AXON BODY - TAP REFRESH 1 - DOCK MULTI BAY	2	1	05/01/2027
Body Worn Camera TAP 10 Year Bundle	73309	AXON BODY - TAP REFRESH 1 - DOCK SINGLE BAY	2	1	05/01/2027
BUNDLE - TASER 10 CERTIFICATION 10YR	100399	AXON BODY - TAP REFRESH 1 - CAMERA	25	1	05/01/2027
BUNDLE - TASER 10 CERTIFICATION 10YR	100400	TASER 10 LIVE CARTRIDGE	80	1	11/01/2027
BUNDLE - TASER 10 CERTIFICATION 10YR	100399	AXON TASER 10 - CARTRIDGE - HALT	200	1	11/01/2027
BUNDLE - TASER 10 CERTIFICATION 10YR	100400	TASER 10 LIVE CARTRIDGE	70	1	11/01/2028
Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	73688	AXON TASER 10 - CARTRIDGE - HALT	200	1	11/01/2028
Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	73314	AXON BODY - TAP REFRESH 2 - DOCK MULTI BAY	2	1	11/01/2029
Body Worn Camera TAP 10 Year Bundle	73310	AXON BODY - TAP REFRESH 2 - DOCK SINGLE BAY	2	1	11/01/2029
Fleet 3 Advanced 10 Year	72040	AXON BODY - TAP REFRESH 2 - CAMERA	25	1	11/01/2029
Fleet 3 Advanced Renewal	72040	AXON FLEET - TAP REFRESH 1 - 2 CAMERA KIT	7	1	11/01/2029
BUNDLE - TASER 10 CERTIFICATION 10YR	20242	AXON FLEET - TAP REFRESH 1 - 2 CAMERA KIT	23	1	11/01/2029
		AXON TASER - CERTIFICATION PROGRAM YEAR 6-10 HARDWARE	25	1	05/01/2030

Bundle	Item	Description	QTY	Shipping Location	Estimated Delivery Date
Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	73347	AXON BODY - TAP REFRESH 3 - DOCK MULTI BAY	2	1	05/01/2032
Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	73317	AXON BODY - TAP REFRESH 3 - DOCK SINGLE BAY	2	1	05/01/2032
Body Worn Camera TAP 10 Year Bundle	73345	AXON BODY - TAP REFRESH 3 - CAMERA	25	1	05/01/2032
Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	73348	AXON BODY - TAP REFRESH 4 - DOCK MULTI BAY	2	1	11/01/2034
Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	73318	AXON BODY - TAP REFRESH 4 - DOCK SINGLE BAY	2	1	11/01/2034
Body Worn Camera TAP 10 Year Bundle	73346	AXON BODY - TAP REFRESH 4 - CAMERA	25	1	11/01/2034
Fleet 3 Advanced 10 Year	100092	AXON FLEET - TAP REFRESH 2 - 2 CAMERA KIT	7	1	11/01/2034

Software	Item	Description	QTY	Estimated Start Date	Estimated End Date
Bundle					
A la Carte	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	20	06/15/2024	11/30/2024
A la Carte	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	178	06/15/2024	11/30/2024
A la Carte	73746	AXON EVIDENCE - ECOM LICENSE - PRO	3	06/15/2024	11/30/2024
A la Carte	73640	AXON EVIDENCE - ECOM LICENSE - BASIC	19	06/15/2024	11/30/2024
A la Carte	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	23	06/15/2024	11/30/2024
A la Carte	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	23	06/15/2024	11/30/2024
A la Carte	80402	AXON RESPOND - LICENSE - FLEET 3	23	06/15/2024	11/30/2024
Basic License Bundle	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	49	06/15/2024	11/30/2024
Basic License Bundle	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	24	12/01/2024	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	24	12/01/2024	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	101180	AXON TASER - DATA SCIENCE PROGRAM	25	12/01/2024	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	20248	AXON TASER - EVIDENCE.COM LICENSE	25	12/01/2024	11/30/2034
Fleet 3 Advanced 10 Year	20248	AXON TASER - EVIDENCE.COM LICENSE	1	12/01/2024	11/30/2034
Fleet 3 Advanced 10 Year	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	7	12/01/2024	11/30/2034
Fleet 3 Advanced 10 Year	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	7	12/01/2024	11/30/2034
Fleet 3 Advanced 10 Year	80402	AXON RESPOND - LICENSE - FLEET 3	7	12/01/2024	11/30/2034
Fleet 3 Advanced Renewal	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	14	12/01/2024	11/30/2034
Fleet 3 Advanced Renewal	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	23	12/01/2024	11/30/2029
Fleet 3 Advanced Renewal	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	23	12/01/2024	11/30/2029
Fleet 3 Advanced Renewal	80402	AXON RESPOND - LICENSE - FLEET 3	23	12/01/2024	11/30/2029
Pro License Bundle	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	46	12/01/2024	11/30/2029
A la Carte	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	18	12/01/2024	11/30/2034
A la Carte	73746	AXON EVIDENCE - ECOM LICENSE - PRO	6	12/01/2024	11/30/2034
A la Carte	73680	AXON RESPOND PLUS - LICENSE	25	12/01/2024	11/30/2034
A la Carte	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	12/01/2024	11/30/2034
A la Carte	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	12/01/2024	11/30/2034

Services	Item	Description	QTY
Bundle			
BUNDLE - TASER 10 CERTIFICATION 10YR	100751	AXON TASER 10 - REPLACEMENT ACCESS PROGRAM - DUTY CARTRIDGE	25
BUNDLE - TASER 10 CERTIFICATION 10YR	101193	AXON TASER - ON DEMAND CERTIFICATION	1
Fleet 3 Advanced 10 Year	73391	AXON FLEET 3 - DEPLOYMENT (PER VEHICLE)	7
Fleet 3 Advanced 10 Year	73392	AXON FLEET 3 - INSTALLATION - UPGRADE (PER VEHICLE)	7
Fleet 3 Advanced 10 Year	73392	AXON FLEET 3 - INSTALLATION - UPGRADE (PER VEHICLE)	7
Fleet 3 Advanced Renewal	73392	AXON FLEET 3 - INSTALLATION - UPGRADE (PER VEHICLE)	23
A la Carte	101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1

Warranties

Bundle	Item	Description	QTY	Estimated Start Date	Estimated End Date
A la Carte	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1		
A la Carte	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1		
A la Carte	80379	AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	23	06/15/2024	11/30/2024
A la Carte	80385	AXON FLEET 3 - EXT WARRANTY - INTERIOR CAMERA	3	06/15/2024	11/30/2024
A la Carte	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	23	06/15/2024	11/30/2024
A la Carte	80496	AXON BODY 3 - EXT WARRANTY - CAMERA	25	06/15/2024	11/30/2024
A la Carte	80498	AXON BODY 3 - EXT WARRANTY - EIGHT BAY DOCK	2	06/15/2024	11/30/2024
A la Carte	73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	07/01/2024	09/30/2028
Fleet 3 Advanced Renewal	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	23	12/01/2024	11/30/2029
Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	80465	AXON BODY - TAP WARRANTY - MULTI BAY DOCK	2	11/01/2025	11/30/2034
Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	80466	AXON BODY - TAP WARRANTY - SINGLE BAY DOCK	2	11/01/2025	11/30/2034
Body Worn Camera TAP 10 Year Bundle	80464	AXON BODY - TAP WARRANTY - CAMERA	25	11/01/2025	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	100704	AXON TASER 10 - EXT WARRANTY - HANDLE	25	11/01/2025	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	80374	AXON TASER 7 - EXT WARRANTY - BATTERY PACK	25	11/01/2025	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	80374	AXON TASER 7 - EXT WARRANTY - BATTERY PACK	5	11/01/2025	11/30/2034
BUNDLE - TASER 10 CERTIFICATION 10YR	80396	AXON TASER 7 - EXT WARRANTY - DOCK SIX BAY	1	11/01/2025	11/30/2034
Fleet 3 Advanced 10 Year	80379	AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	7	11/01/2025	11/30/2034
Fleet 3 Advanced 10 Year	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	7	11/01/2025	11/30/2034

Shipping Locations

Location Number	Street	City	State	Zip	Country
1	700 E Roosevelt Ave	Grants	NM	87020-2220	USA
2	700 E Roosevelt Ave	Grants	NM	87020-2220	USA

Payment Details

Jun 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
BWC Gap Coverage	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	20	\$1,200.00	\$94.50	\$1,294.50
BWC Gap Coverage	73683	AXON EVIDENCE - STORAGE - 10GB A LA CARTE	178	\$640.80	\$50.46	\$691.26
BWC Gap Coverage	73746	AXON EVIDENCE - ECOM LICENSE - PRO	3	\$720.00	\$56.70	\$776.70
BWC Gap Coverage	73840	AXON EVIDENCE - ECOM LICENSE - BASIC	19	\$1,710.00	\$134.66	\$1,844.66
BWC Gap Coverage	80496	AXON BODY 3 - EXT WARRANTY - CAMERA	25	\$1,830.00	\$144.11	\$1,974.11
BWC Gap Coverage	80498	AXON BODY 3 - EXT WARRANTY - EIGHT BAY DOCK	2	\$260.40	\$20.51	\$280.91
Invoice Upon Fulfillment	80379	AXON SIGNAL - EXT WARRANTY - SIGNAL UNIT	23	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	80385	AXON FLEET 3 - EXT WARRANTY - INTERIOR CAMERA	3	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	80400	AXON EVIDENCE - FLEET VEHICLE LICENSE	23	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	80401	AXON FLEET 3 - ALPR LICENSE - 1 CAMERA	23	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	80402	AXON RESPOND - LICENSE - FLEET 3	23	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	80410	AXON EVIDENCE - STORAGE - FLEET 1 CAMERA UNLIMITED	49	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	80495	AXON FLEET 3 - EXT WARRANTY - 2 CAMERA KIT	23	\$0.00	\$0.00	\$0.00
Total				\$6,361.20	\$500.94	\$6,862.14

Nov 2024

Invoice Plan	Item	Description	Qty	Subtotal	Tax	Total
Year 1	101203	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
Year 1	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
Year 1	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
Year 1	73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
Year 1	73580	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
Year 1	73582	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
Year 1	73585	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
Year 1		Basic License Bundle	24	\$0.00	\$0.00	\$0.00
Year 1	BWCam1M2DTAP10Yr	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
Year 1	BWCamSBDTAP10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$6.99	\$336.98
Year 1	BWCamTAP10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
Year 1	C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,063.02	\$355.79	\$22,418.81
Year 1	Fleet3A10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Year 1	Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
Year 1	H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
Year 1	H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
Year 1	H00003	AB4 1-Bay Dock Bundle	2	\$45.80	\$0.00	\$45.80
Year 1	Pro License	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Invoice Upon Fulfillment	100552	TRANSFER CREDIT - GOODS	1	\$0.00	\$0.00	\$0.00
Invoice Upon Fulfillment	100553	TRANSFER CREDIT - SOFTWARE AND SERVICES	1	(\$48,854.24)	(\$8,743.57)	(\$57,597.81)
Total				(\$56,456.14)	(\$3,688.41)	(\$60,144.55)

Dec 2024

Invoice Plan

Invoice Upon Fulfillment

Total

Item	Description	Qty	Subtotal	Tax	Total
Fleet3ARe	Fleet 3 Advanced Renewal	23	\$0.00	\$0.00	\$0.00
			\$0.00	\$0.00	\$0.00

Nov 2025

Invoice Plan

Year 2

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Item	Description	Qty	Subtotal	Tax	Total
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
BasicLicense	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
BWCam/ABDTAP10Yr	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$975.46
BWCam/SBDTAP10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$8.99	\$338.98
BWCamTAP10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.79	\$22,408.81
Fleet3A10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
H00003	AB4 1-Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
ProLicense	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
			\$103,427.58	\$5,055.16	\$108,482.74

Nov 2026

Invoice Plan

Year 3

Year 3

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Year 3

Year 3

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Item	Description	Qty	Subtotal	Tax	Total
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
BasicLicense	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
BWCam/ABDTAP10Yr	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
BWCam/SBDTAP10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$8.99	\$338.98
BWCamTAP10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.79	\$22,408.81
Fleet3A10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
H00003	AB4 1-Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
ProLicense	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
			\$103,427.58	\$5,055.16	\$108,482.74

Nov 2027

Invoice Plan

Item	Description	Qty	Subtotal	Tax	Total
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
BWCamMBDTAP10Year	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
BWCamSBDTAP10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$8.99	\$338.98
BWCamTAP10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.79	\$22,408.81
Fleet3A10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
H00003	AB4 1-Bay Dock Bundle	2	\$45.80	\$0.00	\$45.80
ProLicense	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Total			\$103,427.58	\$5,055.16	\$108,482.74

Nov 2028

Invoice Plan

Item	Description	Qty	Subtotal	Tax	Total
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
BWCamMBDTAP10Year	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
BWCamSBDTAP10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$8.99	\$338.98
BWCamTAP10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.79	\$22,408.81
Fleet3A10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
H00003	AB4 1-Bay Dock Bundle	2	\$45.80	\$0.00	\$45.80
ProLicense	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Total			\$103,427.58	\$5,055.16	\$108,482.74

Nov 2029

Invoice Plan

Item	Description	Qty	Subtotal	Tax	Total
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60

Nov 2029

Invoice Plan

	Description	Qty	Subtotal	Tax	Total
Year 6	Basic License Bundle	24	\$0.00	\$0.00	
Year 6	BWCam/MBDTAP 10 Year	2	\$959.52	\$18.94	\$976.46
Year 6	BWCam/SBDTAP 10Yr	2	\$329.99	\$8.99	\$338.98
Year 6	BWCam/TAP 10Yr	25	\$11,237.99	\$227.08	\$11,465.07
Year 6	C00011	25	\$22,053.02	\$355.79	\$22,408.81
Year 6	FleetQA10Yr	7	\$18,970.56	\$976.07	\$19,946.63
Year 6	Fleet3ARe	23	\$26,160.66	\$1,306.28	\$27,766.94
Year 6	H03001	25	\$0.00	\$0.00	\$0.00
Year 6	H03002	2	\$0.00	\$0.00	\$0.00
Year 6	H03003	2	\$45.80	\$0.00	\$45.80
Year 6	ProLicense Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Total			\$103,427.58	\$5,055.16	\$108,482.74

Nov 2030

Invoice Plan

Account No.	Year	Description	Quantity	Subtotal	Tax	Total
101208	Year 7	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	Year 7	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	Year 7	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73390	Year 7	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	Year 7	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	Year 7	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73685	Year 7	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
Basic License	Year 7	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
BWCam1M8D1AP10Yr	Year 7	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
BWCam1SBD1AP10Yr	Year 7	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$23.98	\$353.97
BWCam1AP10Yr	Year 7	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
C00011	Year 7	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.79	\$22,408.81
Fleet3A10Yr	Year 7	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Fleet3ARe	Year 7	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
H00001	Year 7	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
H00002	Year 7	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
H00003	Year 7	AB4 1-Bay Dock Bundle	2	\$45.80	\$45.80	\$91.60
ProLicense	Year 7	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Total				\$103,427.58	\$5,055.16	\$108,482.74

Nov 2031

Invoice Plan

Item	Description	Quantity	Subtotal	Tax	Total
101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
73350	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
BWCamlMBD1AP10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$8.99	\$338.98
BWCamlTAP10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	7	\$22,053.02	\$355.79	\$22,408.81
Fleet3A10Yr	Fleet 3 Advanced 10 Year	25	\$18,970.56	\$976.07	\$19,946.63
Fleet3ARc	Fleet 3 Advanced Renewal	23	\$26,150.56	\$27,766.94	\$27,766.94

Nov 2031

Invoice Plan

Year 8	Item	Description	Qty	Subtotal	Tax	Total
Year 8	H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
Year 8	H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
Year 8	H00003	AB4 1-Bay Dock Bundle	2	\$45.80	\$0.00	\$45.80
Year 8	ProLicense	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Total				\$103,427.58	\$5,055.16	\$108,482.74

Nov 2032

Invoice Plan

Year 9	Item	Description	Qty	Subtotal	Tax	Total
Year 9	101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.69	\$269.69
Year 9	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
Year 9	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.68	\$22.98
Year 9	73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
Year 9	73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.76	\$7,763.76
Year 9	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.33	\$3,922.33
Year 9	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.60	\$9,802.60
Year 9	BasicLicense	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
Year 9	BWCam/BDTAP/10Year	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.94	\$976.46
Year 9	BWCam/BDTAP/10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$8.99	\$338.98
Year 9	BWCamTAP/10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.08	\$11,465.07
Year 9	C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.79	\$22,408.81
Year 9	Fleet3A/10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.07	\$19,946.63
Year 9	Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.28	\$27,766.94
Year 9	H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
Year 9	H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
Year 9	H00003	AB4 1-Bay Dock Bundle	2	\$45.80	\$0.00	\$45.80
Year 9	ProLicense	Pro License Bundle	6	\$3,457.44	\$272.27	\$3,729.71
Total				\$103,427.58	\$5,055.16	\$108,482.74

Nov 2033

Invoice Plan

Year 10	Item	Description	Qty	Subtotal	Tax	Total
Year 10	101208	AXON TASER 10 - 2 DAY INSTRUCTOR COURSE - INSIDE SALES	1	\$250.00	\$19.67	\$269.67
Year 10	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.65	\$22.95
Year 10	11641	AXON FLEET - CRADLEPOINT NETCLOUD ESSENTIALS RENEWAL - 1YR	1	\$21.30	\$1.65	\$22.95
Year 10	73390	AXON FLEET - CRADLEPOINT ROUTER TRANSFERRED WARRANTY	23	\$0.00	\$0.00	\$0.00
Year 10	73680	AXON RESPOND PLUS - LICENSE	25	\$7,197.00	\$566.80	\$7,763.80
Year 10	73682	AXON EVIDENCE - AUTO TAGGING LICENSE	25	\$3,636.00	\$286.37	\$3,922.37
Year 10	73686	AXON EVIDENCE - STORAGE - UNLIMITED (AXON DEVICE)	25	\$9,087.00	\$715.61	\$9,802.61
Year 10	BasicLicense	Basic License Bundle	24	\$0.00	\$0.00	\$0.00
Year 10	BWCam/BDTAP/10Year	Body Worn Camera Multi-Bay Dock TAP 10 Year Bundle	2	\$959.52	\$16.96	\$976.48
Year 10	BWCam/BDTAP/10Yr	Body Worn Camera Single-Bay Dock TAP 10 Year Bundle	2	\$329.99	\$9.03	\$339.02
Year 10	BWCamTAP/10Yr	Body Worn Camera TAP 10 Year Bundle	25	\$11,237.99	\$227.09	\$11,465.08
Year 10	C00011	BUNDLE - TASER 10 CERTIFICATION 10YR	25	\$22,053.02	\$355.76	\$22,408.78
Year 10	Fleet3A/10Yr	Fleet 3 Advanced 10 Year	7	\$18,970.56	\$976.02	\$19,946.58
Year 10	Fleet3ARe	Fleet 3 Advanced Renewal	23	\$26,160.66	\$1,606.27	\$27,766.93
Year 10	H00001	AB4 Camera Bundle	25	\$0.00	\$0.00	\$0.00
Year 10	H00002	AB4 Multi Bay Dock Bundle	2	\$0.00	\$0.00	\$0.00
Year 10	H00003	AB4 1-Bay Dock Bundle	2	\$45.80	\$0.00	\$45.80
Year 10	ProLicense	Pro License Bundle	6	\$3,457.44	\$272.30	\$3,729.74
Total				\$103,427.58	\$5,055.18	\$108,482.76

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.

Standard Terms and Conditions

Axon Enterprise Inc. Sales Terms and Conditions

Axon Master Services and Purchasing Agreement:

This Quote is limited to and conditional upon your acceptance of the provisions set forth herein and Axon's Master Services and Purchasing Agreement (posted at <https://www.axon.com/sales-terms-and-conditions>), as well as the attached Statement of Work (SOW) for Axon Fleet and/or Axon Interview Room purchase, if applicable. In the event you and Axon have entered into a prior agreement to govern all future purchases, that agreement shall govern to the extent it includes the products and services being purchased and does not conflict with the Axon Customer Experience Improvement Program Appendix as described below.

ACEIP:

The Axon Customer Experience Improvement Program Appendix, which includes the sharing of de-identified segments of Agency Content with Axon to develop new products and improve your product experience (posted at www.axon.com/legal/sales-terms-and-conditions), is incorporated herein by reference. By signing below, you agree to the terms of the Axon Customer Experience Improvement Program.

Acceptance of Terms:

Any purchase order issued in response to this Quote is subject solely to the above referenced terms and conditions. By signing below, you represent that you are lawfully able to enter into contracts. If you are signing on behalf of an entity (including but not limited to the company, municipality, or government agency for whom you work), you represent to Axon that you have legal authority to bind that entity. If you do not have this authority, please do not sign this Quote.

Exceptions to Standard Terms and Conditions

Agency has existing contract(s) originated via Quote(s):

Q-442528

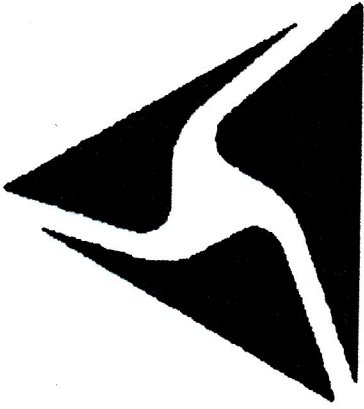
Agency is terminating those contracts effective 6/15/2024 Any changes in this date will result in modification of the program value which may result in additional fees or credits due to or from Axon.

The parties agree that Axon is applying a Net Transfer Credit of -\$159,883.72

100% discounted body-worn camera and docking station hardware contained in this quote reflects a TAP replacement for hardware purchased under existing contract #00021705. All TAP obligations from this contract will be considered fulfilled upon execution of this quote.

Signature		Date Signed
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5/13/2024



Statewide Price Agreements

Search By

Procurement
Number

Description

Vendor

AXON ENTERPRISE INC

Commodities

Clear

Procurement
Number

[40-00000-23-000004](#)

Description
PUBLIC SAFETY
VIDEO SYSTEMS

Commodity

AIRCRAFT AND AIRPORT
EQUIPMENT, PARTS, AND SUPPLIES
AUTOMOTIVE ACCESSORIES FOR
AUTOMOBILES, BUSES, TRAILERS,
TRUCKS, ETC.
PHOTOGRAPHIC EQUIPMENT, FILM,
AND SUPPLIES (NOT GRAPHIC ARTS,
MICROFILM, AND X-RAY)
POLICE DRUGS AND SECURITY

Begin Date
10/06/2023

Expiration
Date
10/06/2025

of
Awarded
Vendors
4

Leanna Tipton

From: Sylas Rohner <srohner@axon.com>
Sent: Monday, May 13, 2024 9:23 AM
To: Robert Turney
Cc: Jeff Marez; Kate Fletcher; Larry Diaz; Leanna Tipton
Subject: Re: request for meeting - Zoom
Attachments: Cibola CSD 10 YR.pdf

Hi all,

Updated and binding quote is attached. I applied a 10% discount and removed the tax surrounding the T10, this removed \$126,134 from the total. My team has confirmed the remaining tax is accurate for NM.

Our accounts receivable team would not let me remove the \$6,862.14 June 24 payment as we need to invoice some portion each year and this is the minimum they will allow.

Please let me know if you have any other questions or need help prepping for council.

Thank you!

Sylas Rohner
Inside Sales Manager

W / 480 550 9350
AXON.COM

From: Sylas Rohner <srohner@axon.com>
Sent: Thursday, May 9, 2024 9:56 AM
To: Robert Turney <Robert.Turney@co.cibola.nm.us>
Cc: Jeff Marez <Jeff.Marez@co.cibola.nm.us>; Kate Fletcher <Kate.Fletcher@co.cibola.nm.us>; Larry Diaz <Larry.Diaz@co.cibola.nm.us>; Leanna Tipton <Leanna.Tipton@co.cibola.nm.us>
Subject: Re: request for meeting - Zoom

Just sent. Thanks!

Sylas Rohner
Inside Sales Manager

W / 480 550 9350
AXON.COM

From: Robert Turney <Robert.Turney@co.cibola.nm.us>
Sent: Thursday, May 9, 2024 9:51 AM
To: Sylas Rohner <srohner@axon.com>
Cc: Jeff Marez <Jeff.Marez@co.cibola.nm.us>; Kate Fletcher <Kate.Fletcher@co.cibola.nm.us>; Larry Diaz