

CITY OF SANTA FE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and _____ (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City.

1. SCOPE OF SERVICES

The Contractor shall provide the following services for the City:

A. Business Call Program: Implement and expand a business visitation program that aligns and compliments the City of Santa Fe Villa Real Advantage Program. The Business Call Program shall, include but not be limited, to the following contact methods to achieve the outcomes of the Business Call Program:

- (1) Conduct one-on-one business site calls.
- (2) Gather basic company information on businesses visits to populate the economic development data base as required by the city and incorporate herein by reference to provide match-making services between economic development resource partners and Santa Fe area economic base businesses.

(3) Gather information to provide an incentive analysis, if necessary, to assist qualified economic based businesses expand in the Santa Fe area.

B. Marketing and Outreach: Market the Villa Real Business Advantage program to businesses in the Santa Fe area. Contractor shall utilize paid and non-paid media resources as well as grassroots campaigns to ensure that market niches are explored.

(1) Utilize speaking engagements, business assistance events, business referrals, referrals from economic development service providers, SF Chamber of Commerce events and community events to market the Villa Real Advantage Program.

(2) Utilize the City of Santa Fe Resource Guide as its principle brochure. Include on all marketing materials, the City of Santa Fe Economic Development Division program's logo and related branding. Additionally, the Contractor shall submit to the city any marketing collateral proofs for review prior to finalizing the marketing collateral.

C. Technical Assistance: Provide technical assistance to Santa Fe area businesses and entrepreneurs to assist them in identifying no cost or low cost business resources to but not limited to the following technical assistance areas: financing both equity an debt financing,

building your businesses assistance which includes but is not limited to: executing a business strategy, writing a business plan, how to navigate the city efficiently for business licensing, permitting and other needs), and workforce development programs.

D. Job Training Technical Assistance: Collaborate with staff at the New Mexico Economic Development Department Job Training Incentive Program and Northern Area Workforce Board to assist businesses to access these On-the Job Training (OJT) programs. Contractor shall provide the following services to businesses accessing the Job Training Incentive Program or Workforce Investment Act (WIA) On-the Job Training programs.

(1) Guide the business owner/entrepreneur through the application program of the training programs.

(2) Identify businesses for the Job Training Incentive Program and Northern Area Workforce Board On-the Job Training programs.

(3) Utilize methods approved by Job Training Incentive Program or Northern Area Workforce Board staff to assist business with Job Training Incentive Program and Workforce Investment Act On-the Job Training applications. Provide an updated copy of Job Training Incentive Program and Workforce Investment Act On-the Job Training guidelines

published by New Mexico Economic Development Department and Northern Area Workforce Board staff, if available.

(4) Market the Workforce Investment Act and Job Training Incentive Program to Santa Fe Area businesses as outlined in paragraph B in Scope of Services.

E. Economic Development Partnerships: Collaborate with City of Santa Fe Economic Development Division Staff, to develop and strengthen relationships with local and statewide economic development providers. Contractor shall collaborate with but not limited to the following economic development partners:

- (1) New Mexico Economic Development Department
- (2) Santa Fe County
- (3) Santa Fe Small Business Development Center
- (4) Service Corps of Retired Executives
- (5) The Loan Fund
- (6) ACCION New Mexico
- (7) Women's Economic Self-Sufficiency Team
- (8) NM Department of Workforce Solutions
- (9) Regional Development Corporation
- (10) Small Business Administration
- (11) NM Manufacturing Extension Partnership
- (12) Los Alamos National Laboratory

F. Deliverables: Achieve the following outcomes and deliverables within the contract year:

(1) Facilitate the creation or retention of 50 or more direct jobs through business assistance services.

(2) Facilitate the expansion or start-up of 10 more businesses within a contract year.

(3) Provide business resource technical assistance to 24 or more businesses within a contract year.

(3) Assist four to six businesses to access job training programs administered by the State of New Mexico and/or Northern Area Workforce Board, i.e. JTIP or the WIA training funds.

(4) Visit 40 or more businesses; gather basic demographic information as identified by the city to populate the economic development data base, and assist these businesses with match making services to no cost or low cost business resources.

G. Reporting: Provide monthly reports and a final report to the City that include the following and any other pertinent data:

(1) Business growth or retention: Number of businesses expanded, retained or started up; average wages of employees and capital investment generated by expansion or start-up.

(2) Businesses assisted with resources: Number of businesses or entrepreneurs assisted with resources; the type of technical assistance provided and number of and to whom business resource referrals were made.

(3) Training programs accessed: The businesses that accessed the JTIP or other training programs, number of workers trained, training or skills needed and average wages of workers.

(4) Survey data: Number of businesses providing survey data information to the Economic Development Division.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the personnel, experience and knowledge necessary to perform the services described under this Agreement.

B. The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. The City shall pay to the Contractor in full payment for services rendered, a sum not to exceed thirty thousand dollars (\$30,000), inclusive of applicable gross receipts taxes. The Contractor shall invoice the City monthly in

the amount of two thousand five hundred dollars (\$2,500) per month for services rendered.

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed.

4. APPROPRIATIONS

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

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and terminate on October 31, 2011, unless sooner pursuant to Article 6 below.

6. TERMINATION

A. This Agreement may be terminated by the City upon 10 days written notice to the Contractor.

(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

(2) If compensation is not based upon hourly rates for services rendered, the City shall pay the Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination, and for which compensation has not already been paid.

(3) If compensation is based upon hourly rates and expenses, then Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

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

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

C. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this contract.

8. CONFIDENTIALITY

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

9. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this

Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

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

12. INSURANCE

A. The Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no

less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

13. INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as

well as the performance of Contractor's employees, agents, representatives and subcontractors.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection

by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such

agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe:
Housing and Community
Development Department
P.O. Box 909
Santa Fe, NM 87504-0909

Contractor:
Name and Title
Address
City, State Zip Code

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

ROBERT P. ROMERO,
CITY MANAGER

DATE: _____

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

CONTRACTOR:
Name and Title

APPROVED AS TO FORM:

By: _____
(Name & Title)

JAT - OK for RFP
GENO ZAMORA, CITY ATTORNEY

CRS # _____
City of Santa Fe Business
Registration _____

APPROVED:

KATHRYN RAVELING, DIRECTOR
FINANCE DEPARTMENT

22116.510300

BUSINESS UNIT/LINE ITEM