

GSD CONTRACTS REVIEW BUREAU
Joseph Montoya Building, Rm 2016
Santa Fe, NM 87505

PROFESSIONAL SERVICES CONTRACT BRIEF
CRB, Revised 02/20
(CONTRACT BRIEF MUST BE TYPED)

2	2
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FY

6	6	7
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Agency Code

1	2	1	0
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Organization Code

0	0	0	0	6
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Contract No.

0	0
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Amend. No.

Contractor Name: Jason Sandel DBA NM Energy Prosperity, LLC

Contractor Address: P.O. Box 100, Aztec N.M. 87410

Phone: 505-688-0898

Agency Contact: Joseph Lovato

Phone: 505-795-2258

Single-Year Contract:

\$ 59,000.00 Total Contract Amount

Appropriation Period:

FY 22

Contract or Amendment Amount:

General Fund 59,000.00

Other State Funds 0.00

Federal Funds 0.00

Total \$ 59,000.00

Multi-Year Contract:

\$ Total Contract Amount

Contract Term: From: / / To: 0 4 / 0 2 / 2 0 DS 2 DS

(GSD Approval date to be filled in by Contracts Review Bureau)

(Termination Date)

Retroactive: Y/N

Date: / /

Non-profit: Y/N

☒ Operational Budget ☐ Capital Outlay**BRIEF DESCRIPTION OF SERVICES AND/OR REASON FOR AMENDMENT:**

The workplan is made up of five key tasks: (1) hydrogen hub descriptions and benefits, (2) Information gathering and stakeholder meetings of hydrogen development, commercialization and energy justice advocacy, (3) recommend structure and work plan for a New Mexico hydrogen advisory committee (4) identify key clean hydrogen commercialization opportunities in New Mexico and (5) develop a New Mexico Hydrogen Hub Strategy. These tasks are supported by structured project management throughout the project.

PROCUREMENT PROCEDURE-Check with X the applicable citation☒ Section 13-1-125 NMSA 1978, small purchase contract (does not exceed \$60,000 excluding gross receipts tax).☐ Section 13-1-120 NMSA 1978, competitive proposal for architect/engineer/landscape/architect/surveyor.☐ Section 13-1-111 NMSA 1978, competitive sealed proposal (contract over \$60,000).☐ Section 13-1-129 NMSA 1978, contract is based upon Price Agreement #☐ Section 13-1-129 NMSA 1978, contract is based upon GSA (please provide all required information)☐ Section 13-1-126 NMSA 1978, sole source procurement (requires written determination and GSD approval).☐ Section 13-1-127 NMSA 1978, emergency procurement.**REQUIREMENTS-Enter Y (yes) to verify the following mandatory requirements:**☒ The agency certifies to GSD that all relevant requirements of the Procurement Code have been followed.☒ The agency certifies to GSD that the contractor will perform at all times as an independent contractor for the purpose of IRS tax compliance and is not performing services as an employee of the agency.☒ The agency certifies to GSD that the agency has performed a legal review and the contract is in compliance with all federal and state laws, rules and regulations.**OTHER REQUIREMENTS-Enter Y (yes), N (no) or N/A (not applicable) to each of the following:**☐ N/A The agency certifies to GSD that Performance Measures have been outlined as required (attach valid section of strategic plan).☒ Y The agency certifies to GSD that the contract complies with GSD rules regarding indemnification and insurance.☒ Y The agency certifies to GSD that the requirements of the Governmental Conduct Act, Section 10-16-1 NMSA 1978 regarding conflict of interest with public officers or state employees have been followed. The agency certifies to GSD that the Attorney General's review has been obtained because:

DocuSigned by:

☒ N Contract with former state employee☒ N Contract with present state employee☒ N/A The agency certifies to GSD that any required performance bonds have been obtained, Section 13-1-148 NMSA 1978

Stephanie Strayer Deputy Cabinet Secretary of Operations

1/31/2022

Cabinet Secretary, Agency Head or Designee

Title

Date

GSD USE ONLY

Category

Status

Amendment Type

Amendment Type

Date Received CRB

Date Approved CRB

Staff

Comments:

PURCHASE DOCUMENT

Number

Amount

Date to FCD

Date from FCD

New Mexico General Services Department State Purchasing Division

AGENCY CERTIFICATION FORM

New Mexico Environment Department _____ hereby certifies the following in regard to the attached contractual

Agency Name NM Energy Prosperity, LLC
agreement between the Agency and _____:

Is Not Name of Contractor

- 1) This contractor **IS/IS NOT** a **former state employee**. (See note below)
(circle one)
- 2) This contractor **IS/IS NOT** a **current state employee** or a **legislator** or the **family member** of a current Is Not
(circle one)
state employee or legislator, or a **business** in which a current state employee or legislator or family member of the current state employee or legislator has an interest of greater than 20%.
(See note below)

NOTE: Former employee requires a Former Employee Affidavit (found on CRB website), PERA letter if contractor retired from State of New Mexico and an AG's letter if contractor separated/retired within the last five years to the date of signed contract. No contract may be awarded to a current state employee or legislator, or to a family member of a current state employee or legislator, or to a business in which any of these persons has an interest greater than 20% unless such contract is awarded pursuant to the Procurement Code, except such persons or businesses cannot be awarded a contract through a sole source or small purchase. (See Section 10-16-1 through 10-16-18 NMSA 1978 for further information.)

- 3) This Contractor is a (check one): FOR PROFIT VENDOR X
NOT FOR PROFIT VENDOR _____
- 4) This PSA DOES COMPLY with the Governor's Guidelines for Contract Review and Re-Evaluation and IS an essential contract for the Agency.

DocuSigned by:

Stephanie Stringer

7998CFBFF45E43F...

1/31/2022

Signature of Agency Representative**

Date

I certify that the information stated in paragraphs 1-3 is true.

DocuSigned by:

[Signature]

7B10C4F684B7498...

1/22/2022

Signature of Contractor

Date

****Must be a DFA authorized signature**

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, *et seq.*, NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a

sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor.

"Pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"Prospective contractor" means a person or business that 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 or business 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.

Note: A prospective contractor shall make **separate** disclosures of all campaign contributions given by (1) the prospective contractor, or (2) a family member or (3) representative of the prospective contractor, or shall complete the non-disclosure statement, as applicable.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By:		Jason Sandel	
Relation to Prospective Contractor:		Sole Member	
Name of Applicable Public Official:		Governor <u>Michelle Lujan Grisham</u>	
Contribution(s) Date(s)	Contribution Amount(s):	Nature of Contribution(s):	Purpose of Contribution(s):
7/31/21	\$ 500.00	Campaign Contribution (Jason Sandel)	Fundraiser
7/8/21	\$ 500.00	Campaign Contribution (Jerry Sandel)	Fundraiser
8/30/21	\$ 500.00	Campaign Contribution (Jerry Sandel)	Fundraiser
	\$		
	\$		

(Attach extra pages if necessary)

Signature: 

Date: 12/20/21

Title/Position: Sole Member

--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.

Signature: _____

Date: _____

Title/Position: _____



STATE OF NEW MEXICO

**ENVIRONMENT DEPARTMENT AND
ECONOMIC DEVELOPMENT DEPARTMENT
PROFESSIONAL SERVICES CONTRACT #22 667 1210 0006**

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **ENVIRONMENT DEPARTMENT (NMED), ECONOMIC DEVELOPMENT DEPARTMENT (EDD)**, hereinafter referred to as the “Agencies,” and **NM ENERGY PROSPERITY, LLC**, hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the General Services Department/State Purchasing Division (GSD/SPD Contracts Review Bureau (CRB)). If not otherwise specifically identified, the term “Agency” may also refer equally to EDD and/or NMED.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work described on Exhibit A, attached hereto, and incorporated herein.

2. Compensation.

A. The NMED shall pay to the Contractor in full payment for services Satisfactorily performed as described in Exhibit A, such compensation not to exceed fifty-nine thousand dollars (\$59,000.00) including Gross Receipts Tax. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed fifty-nine thousand dollars (\$59,000.00). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the GSD/SPD. All invoices MUST BE received by the Agency no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Agency finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services and outlining steps the Contractor may take to provide remedial action. Upon certification to NMED by the Agency that the services have been received and accepted, payment shall be tendered to the

Contractor within thirty days after the date of acceptance. If payment is made by mail, the payments shall be deemed tendered on the date it is postmarked. However, the Agency and NMED shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein. Contractor will submit invoices to the Agency and NMED for services performed. Contractor shall be solely responsible for fulfilling the scope of work in Exhibit A.

D. Contractor shall work directly with, and report to, the EDD Project Manager assigned to this Contract. Contractor shall work with, and report to, NMED when requested or as necessary. Contractor shall submit and maintain a weekly report to the EDD Project Manager.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE GSD/SPD Contracts Review Bureau. This Agreement shall terminate on **April 2, 2022** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with NMSA 1978, § 13-1-150, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in NMSA 1978, § 13-1-150.

4. Termination.

A. Grounds. The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement.

B. Notice: Agency Opportunity to Cure.

1. Except as otherwise provided in Paragraph (4)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Paragraph 5, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

D. Termination Management. Immediately upon receipt by either the Agency or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the Agency as soon as practicable.

5. Appropriations.

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

6. Status of Contractor.

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

7. Assignment.

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

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. 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 Agency.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest: Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Agency employee while such employee was or is employed by the Agency and participating directly or indirectly in the Agency's contracting process;

2) this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the State; (ii) the Contractor is not a member of the family of a public officer or employee of the State; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the State, a member of the family of a public officer or employee of the State, or a business in which a public officer or employee of the State or the family of a public officer or employee of the State has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the State within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction

by, a former public officer or employee of the State whose official act, while in State employment, directly resulted in the Agency's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator's family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

6) in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Agency.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency and notwithstanding anything in the Agreement to the contrary, the Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in Article 12(B).

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or

understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

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

18. Workers Compensation.

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

19. Records and Financial Audit.

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

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Agency and the State of New Mexico from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the

performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

21. New Mexico Employees Health Coverage.

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage.

22. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

23. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive nor diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

24. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To EDD:
Mark Roper
New Mexico Economic Development Department
1100 South St. Francis Drive,
Santa Fe, NM 87505-4147
Mark.Roper@state.nm.us

To NMED:
Cabinet Secretary Kenney
Office of the Secretary
1190 S Saint Francis Dr
Santa Fe, NM 87505
James.Kenney@state.nm.us

To the Contractor:
Jason Sandel
New Mexico Energy Prosperity
Post Office Box 100
Aztec, New Mexico 87410
NMenergyprosperity@gmail.com

25. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the GSD/SPD Contracts Review Bureau below.

By:  7998CFBFF45E43F... Date: 1/31/2022
James C. Kenny, Cabinet Secretary
New Mexico Environment Department Deputy Secretary Stringer DocuSigning on behalf
of Cabinet Secretary

By:  1C13A0881AF244A... Date: 1/31/2022
Marlene Velasquez, Chief Financial Officer
New Mexico Environment Department

Approved for legal sufficiency:

By:  B6670F9997CB4CA... Date: 1/31/2022
Bruce Baziell, General Counsel
New Mexico Environment Department

ECONOMIC DEVELOPMENT DEPARTMENT

By:  8E760F5D6AC54D9... Date: 1/28/2022
Cabinet Secretary

By:  0BE060FA331D4F7... Date: 1/28/2022
General-Counsel

By:  7B10C4E684B7498... Date: 02/03/2022
Chief Financial Officer

Contractor:  7B10C4E684B7498... Date: 1/22/2022

Date: February 15, 2022

EXHIBIT A

Scope of Work

The workplan is made up of five key tasks: (1) hydrogen hub descriptions and benefits, (2) Information gathering and stakeholder meetings of hydrogen development, commercialization and energy justice advocacy, (3) recommend structure and work plan for a New Mexico hydrogen advisory committee (4) identify key clean hydrogen commercialization opportunities in New Mexico and (5) develop a New Mexico Hydrogen Hub Strategy. These tasks are supported by structured project management throughout the project.

The goal is to gain and provide a detailed understanding of the assets New Mexico has available to put to work as a hydrogen hub. Given the appetite for hydrogen demonstration projects, the research will be suited to be used to assist in attracting elements of a comprehensive hydrogen economy in the state. The research will also identify gaps and challenges that exist in developing a hydrogen-based economy. In this manner New Mexico can take advantage of private investment which has already been made; but also leverage and bolster that investment through public private partnerships.

Project Management Approach

Developing a strategy for a new market requires collaboration between the consultant and client. As such, the team is proposing to hold regular weekly calls throughout the project. The project manager will provide regular updates on project progress and will make sure the project is delivered on time with all agreed scope elements and deliverables met. At the outset of the project, a kick-off meeting will be scheduled to ensure alignment on the project scope, timing, and deliverables as well as the communications approach throughout the project.

The primary research team will expand beyond standard stakeholder meetings and partner with other research teams who are studying hydrogen economies across the western United States. For example, New Mexico's federal research laboratories and institutions of higher education have extensive knowledge and experience in the topic at hand. Los Alamos National Labs' project Decarbonizing the Intermountain West (iWEST) and New Mexico Tech's carbon sequestration research are local expert regarding the technical opportunities and challenges regarding a hydrogen economy. We will draw together this body of expertise and knowledge.

Timeline

1. **Project Administration – 1st QTR Of 2022**
 - a. **Information Gathering**
 - b. **Stakeholder Meetings**
2. **Hub Description and Benefits – 1st QTR of 2022**
 - a. **Infrastructure description and mapping**
 - b. **Estimated Benefits including but not limited to jobs, wages, emission reductions**
 - c. **Final draft and submission of white paper.**

Total Compensation

1. **Not to exceed fifty-nine thousand (\$59,000.00) dollars including Gross Receipts Tax.**