

AMENDMENT NO. 1
TO
AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
CITY OF DEMING, NEW MEXICO
FOR
DESIGN AND CONSTRUCTION
ASSISTANCE
FOR THE
SOUTHSIDE SEWER IMPROVEMENTS

THIS AMENDMENT NO. 1 is entered into this 11 day of August 2009, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Albuquerque District (hereinafter the "District Engineer"), and the City of Deming, New Mexico (hereinafter the "Non-Federal Sponsor"), represented by the City Administrator.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into an agreement on January 7, 2008 (hereinafter the "Agreement") for design and construction of the Southside Sewer Improvements;

WHEREAS, Section 1512 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (hereinafter the "Recovery Act") requires recipients of Recovery Act funds to report certain information on the use of Recovery Act funds, and the Government intends to provide Recovery Act funds to the Non-Federal Sponsor as reimbursement of the Federal share pursuant to the terms of this Agreement.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to amend the Agreement as follows to document the requirement of the Non-Federal Sponsor to report the information required by the Recovery Act:

1. The following is added as Article XIX of the Agreement.

ARTICLE XIX - RECOVERY ACT REQUIREMENTS

The Government intends to fund reimbursement to the Non-Federal Sponsor, pursuant to Article II.D. of this Agreement, with Recovery Act funds in whole or in part. The Recovery Act requires special reporting by recipients of Recovery Act funds in order to maximize transparency of the use of Recovery Act funds. Not later than ten calendar days after the close of each calendar quarter in which the Non-Federal Sponsor receives Recovery Act funds, the Non-Federal Sponsor shall report the information described in Section 1512(c) of the Recovery Act using the reporting instructions and data elements available online at that time at <http://www.FederalReporting.gov> or its successor, and

shall ensure that any information that is pre-filled is corrected or updated as appropriate. Information from these reports will be made available to the public. The Non-Federal Sponsor shall maintain a current registration in the Central Contractor Registration (<http://www.ccr.gov>) until project close out, including maintaining a Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>). The Non-Federal Sponsor also shall comply with all other applicable Recovery Act provisions, including Sections 1605 (regarding the requirement to use American iron, steel, and manufactured Goods for certain projects) and 1606 (regarding wage rates). The Non-Federal Sponsor's costs of complying with this Article shall be eligible for inclusion in *total project costs* in accordance with, and subject to the limitations of, Article II.C. of this Agreement.

2. All other terms and conditions of the Agreement remain unchanged.

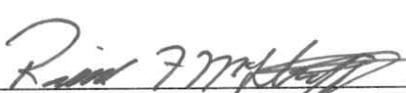
IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

CITY OF DEMING, NEW MEXICO

BY: 

Kimberly M. Colloton
Lieutenant Colonel, U.S. Army
District Engineer

BY: 

Richard F. McInturff
City Administrator

DATE: 8/11/09

DATE: 8-3-09

CERTIFICATE OF AUTHORITY

I, Jim Foy, do hereby certify that I am the principal legal officer of the City of Deming, that the City of Deming is a legally constituted public body with full authority and legal capability to perform the terms of Amendment No. 1, between the Department of the Army and the City of Deming in connection with the Southside Sewer Improvements project, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed Amendment No. 1 on behalf of the City of Deming have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
9th day of August, 2005.



Jim Foy
City Attorney

CERTIFICATION REGARDING LOBBYING

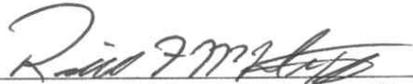
The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Richard F. McInturff
City Administrator

DATE: 8-5-09