

Date: September 6, 2018
To: Buckman Direct Diversion Board
From: Nancy R. Long
Subject: Consideration of Amendment No. 8 to the PMFSA

ITEM AND ISSUE:

Discussion and possible action to approve Amendment No. 8 to the Project Management Fiscal Services Agreement ("PMFSA") to: provide a new definition for the Las Campanas entities; align the financial statements/audit deadline with the City's schedule; and increase the Project Manager's fee from 1% to 4%.

BACKGROUND AND SUMMARY:

A staff advisory committee recommended that the Buckman Direct Diversion Board ("BDDDB") select the City of Santa Fe to continue to serve as Project Manager for the BDDDB and enter into a new agreement for support services with a term through June 30, 2020. The BDDDB adopted the committee's recommendation. The current PMFSA is continuing in effect on a month to month basis.

In order to facilitate the finalization of a new Project Management Agreement, the BDDDB has reconstituted the staff committee and included the Chair and Vice Chair of the BDDDB on the committee.

As the committee works through the terms of a final proposed agreement, it is recommending that an amendment to the current PMFSA be approved in order to increase the Project Manager's fee while the remaining terms of the agreement can be worked through. In addition, the Amendment includes provisions to change the definition of "Las Campanas" from the prior limited partnership to the Club and the Coop and deletes the requirement for the financial statement/audit deadline as 90 days after the end of the fiscal year which did not comport with the City's audit deadline.

ACTION REQUESTED:

It is recommended that the Board approve Amendment No. 8 to the PMFSA. The amendment must also be approved by the City Council.



**AMENDMENT NO. 8
TO
PROJECT MANAGEMENT AND FISCAL SERVICES AGREEMENT
BUCKMAN DIRECT DIVERSION PROJECT**

This Amendment No. 8 to the Project Management and Fiscal Services Agreement (hereinafter referred to as “Amendment No. 8”) is entered into by and between the Buckman Direct Diversion Project Board (the “BDD Board”), an entity organized and existing under that certain Joint Powers Agreement by and between the City of Santa Fe (“City”) and Santa Fe County (“County”), dated March 7, 2005, and the Sangre de Cristo Water Division of the City of Santa Fe (“Project Manager”).

WHEREAS, the BDD Board and the Project Manager entered into the Project Management and Fiscal Services Agreement (the “Agreement”) for the Buckman Direct Diversion Project (“Project”) on November 8, 2007;

WHEREAS, the purpose of the Agreement was to specifically describe the duties and responsibilities of the BDD Board, the duties and responsibilities of the Project Manager, how the project will be operated and maintained by the Project Manager on behalf of the BDD Board, how contributions by the partners will be paid and credited against the obligations in connection with the Buckman Direct Diversion Project, the duties and responsibilities of the Project Manager as fiscal agent for the Project, and other necessary terms;

WHEREAS, the Agreement was amended pursuant to Amendment No. 1 to the Agreement to increase the Project Manager’s monetary authority to enter into contracts and expenditures for the Project from \$20,000 to \$30,000; pursuant to Amendment No. 2 to the Agreement to increase the Project Manager’s monetary authority from \$30,000 to \$50,000; pursuant to Amendment No. 3 to the Agreement to clarify that the monetary authority is exclusive of gross receipts tax; pursuant to Amendment Nos. 4, 5 and 6 to extend the term of the

Agreement; and pursuant to Amendment No. 7 to increase the Project Manager's monetary authority from \$50,000 plus applicable gross receipts tax to \$60,000.00 plus gross receipts tax.

WHEREAS, the BDD Board and the Project Manager desire to enter into this Amendment No. 8 to increase the Project Manager's compensation.

NOW, THEREFORE, for the covenants, promises and consideration described in this Amendment No. 8, the BDD Board and the Project Manager agree as follows:

1. **Article 1. Definitions.** Section L is deleted in its entirety and replaced with the following:

L. "Las Campanas" means the Las Campanas Water and Sewer Cooperative, a New Mexico cooperative association and the Club at Las Campanas, a New Mexico not for profit association, both signatories of the FOPA.

2. **Article 7. Fiscal Agent Responsibilities.** Subsection A(6) is deleted in its entirety and replaced with the following:

(6) After the end of each fiscal year, and in accordance with the New Mexico state audit rule, provide copies of audited financial statements to the City, the County and Las Campanas, showing the assets, liabilities, revenues, expenses, equity balances and budget comparisons for the BDD Project fund on an annual basis for the prior fiscal year in accordance with GAAP and GASB, complete the Management's Discussion and Analysis (MDA) for the annual financial report, and provide upon request, a monthly general ledger report. The Project Manager shall be allowed to recommend that its auditors produce the financial statements, dependent on staff availability and the complexity of the reporting requirements.

3. **Article 8. Compensation.** Section A is deleted in its entirety and replaced with the following:

A. The Project Manager shall be compensated for its services as fiscal agent to the Project in an amount equal to four percent (4%) of the total annual operating budget of the Project in each fiscal year.

In all other respects, the Agreement shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the BDD Board and the City of Santa Fe, New Mexico, have caused this Amendment No. 8 to be executed and delivered by its duly authorized representatives as of the date specified below the signatory for the City of Santa Fe.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]**

BUCKMAN DIRECT DIVERSION BOARD

CITY OF SANTA FE

By: _____
Peter Ives,
BDDDB Chair

By: _____
Alan Webber,
Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Nancy R. Long, BDDDB Counsel

City Attorney

Date: _____

APPROVED:

City Finance Director

Yolanda Vigil, City of Santa Fe Clerk

Date: _____

Business Unit/Line Item

Memorandum



Buckman Direct Diversion

DATE: September 6, 2018

TO: Buckman Direct Diversion Board

FROM: Nancy R. Long

SUBJECT: BLM Right-of-Way Permit No. NMNM 120617 renewal for the BDD Project's Fiber Optic Line

ITEM AND ISSUE:

Request for approval of the BLM Right-of-Way grant offer for the BDD Project's fiber optic line.

BACKGROUND AND SUMMARY:

In 2008, the BDDDB was granted Right-of-Way permits to develop the BDD Project on federally owned BLM land. The BDDDB was granted separate permits for the water treatment plant, the raw water pipe line and the fiber optic lines. The permits for the plant and the pipeline expire December 31, 2031 or a term of 30 years. However, the permit for the fiber optic line expired 10 years after issuance on December 31, 2017. The BLM has agreed to extend the term of the fiber optic permit until December 31, 2047 at a rental rate of \$4,686.36 per year.

RECOMMENDED ACTION:

It is recommended that the Board approve and accept BLM Right-of-Way Grant No. NMNM 120617.



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
RIGHT-OF-WAY GRANT

SERIAL NUMBER NMNM 120617

1. A right-of-way is hereby granted pursuant to Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761).

2. Nature of Interest:

a. By this instrument, the holder:

Buckman Direct Diversion Board
P.O. Box 909
Santa Fe, NM 87504

Receives a right to construct, operate, maintain, and terminate a Fiber Optics Line on public lands in Santa Fe County and described as follows:

New Mexico Principal Meridian, New Mexico

T. 18 N., R. 7 E.,

sec. 1, lots 1 and 2, SW1/4NE1/4NE1/4, and SE1/4NE1/4.

T. 17 N., R. 8 E.,

sec. 4, lots 3 thru 6, and SW1/4SW1/4NE1/4;

sec. 9, lots 1 thru 4;

sec. 15, lots 1 and 2, and SW1/4SW1/4;

sec. 22, SW1/4SW1/4NE1/4, SW1/4NE1/4NW1/4, E1/2NW1/4NW1/4,
N1/2SE1/4NW1/4, and SE1/4SE1/4NW1/4.

T. 18 N., R. 8 E.,

sec. 6, lots 5 and 6, SW1/4NE1/4SW1/4, and SE1/4SW1/4;

sec. 7, lots 4 and 5, W1/2SW1/4NE1/4, NE1/4NW1/4, and E1/2SE1/4NW1/4;

sec. 17, lot 1, SW1/4NW1/4NW1/4, SW1/4NW1/4, SW1/4NE1/4SW1/4, and
E1/2SE1/4SW1/4;

sec. 18, lot 1;

sec. 20, lots 1 thru 4, and E1/2SW1/4NE1/4;

sec. 28, lot 1 and SW1/4NW1/4SW1/4;

sec. 29, lots 1 thru 3;

sec. 33, lots 1 thru 5.

As shown on the attached map (Exhibit A).

b. The right-of-way or permit area granted herein is 10 feet wide 53,281 feet long, and contains 12.23 acres.

c. This instrument shall terminate December 31, 2047, 30 years from its effective date unless, prior thereto, it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.

- d. This instrument may be renewed. If renewed, the right-of-way or permit shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest. The renewal application, in accordance with Federal regulations found at 43 CFR 2807.22(a), must be submitted at least 120 calendar days before your grant expires.
- e. Notwithstanding the expiration of this instrument, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental:

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holder's compliance with all applicable regulations contained in Title 43 Code of Federal Regulations part 2800.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4)(c) or as directed by the authorized officer.
- c. The stipulations, plans, maps, or designs set forth in Exhibit(s) A and B attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.
- d. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.
- e. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

(Signature of Holder)

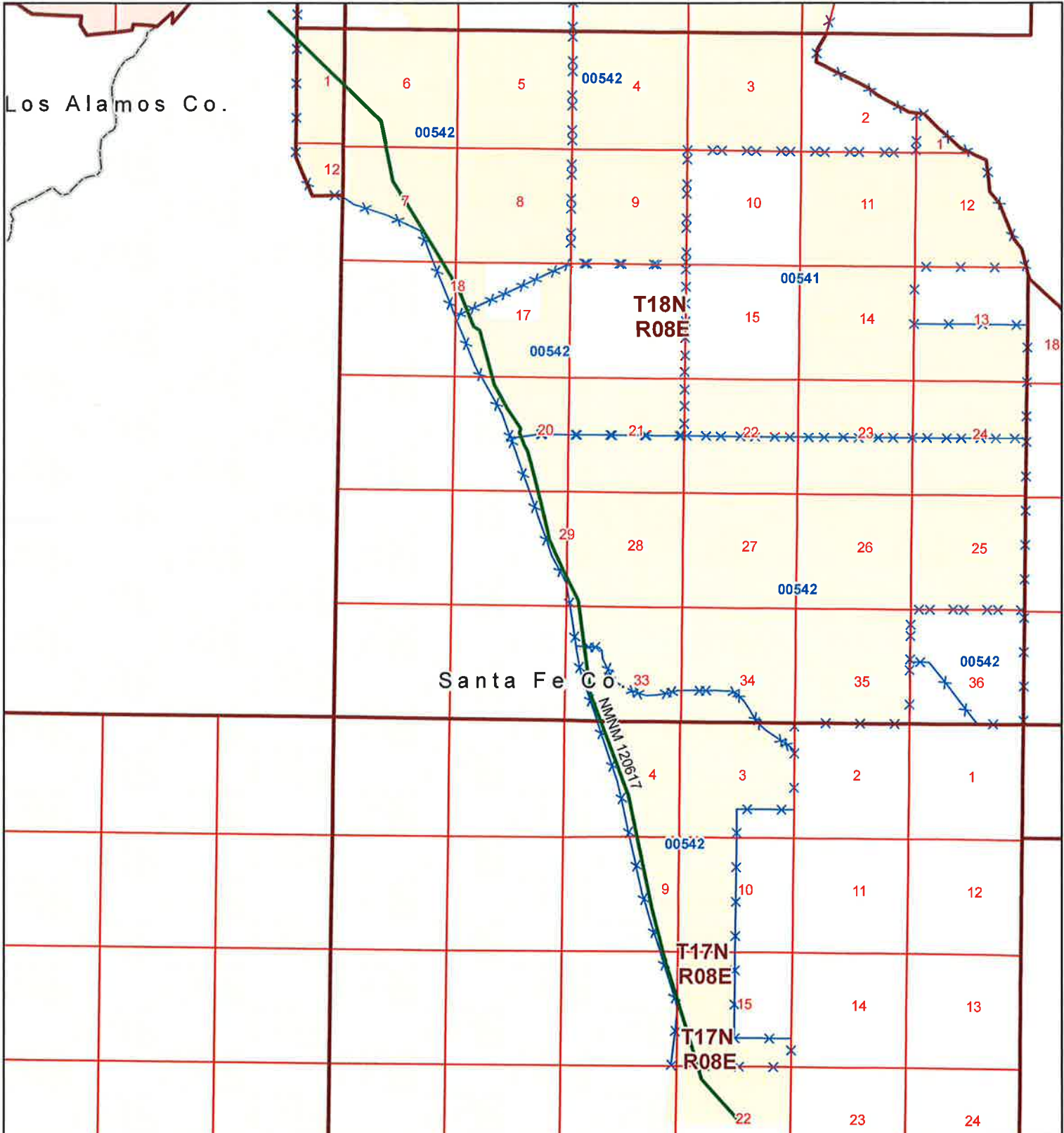
(Title)

(Date)

(Signature of Authorized Officer)

(Title)

(Effective Date of Grant)



NMNM 120617
EXHIBIT A

Right-of-Way Type

- ROW - lines
- Sections
- Counties
- x Grazing Pasture Polygons
- Townships

Surface Ownership

- BLM
- Private
- Forest Service
- State
- Tribal

No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data, or for purposes not intended by BLM. Spatial information may not meet National Map Accuracy Standards. This information may be updated without notification.

0 1.5 3 Miles

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