Memorandum

Buckman Direct Diversion

Date: **July 26, 2023**

To: **Buckman Direct Diversion Board**

From: **Monique Maes, Contracts Administrator**

Via: **Rick Carpenter, Facilities Manager**

Subject **Request to Award Technical Services RFP # 23/63/P GGI**

ITEM:

Request for approval to award RFP 23/63/P to Glorieta Geoscience, A Division of GZA GeoEnvironmental to provide Technical Services for the Buckman Direct Diversion for a contracted amount not to exceed $40,000. plus applicable tax for fiscal year 2024.

BACKGROUND:

On June 20, 2023 the Evaluation Committee for RFP 23/63/P gathered virtually and evaluated (1) one proposal submission for Technical Services. The scope of service covers a verity of regulatory needs related to hydrology studies and assessments of data quality that will assist in decision making. The Evaluation Report is attached for your review. In compliance with the evaluation criteria set forth in the RFP, it was determined that the proposal from Glorieta Geoscience, A Division of GZA GeoEnvironmental received the highest score. Upon approval, the award term will be a four year contract and will be extended in annual increments at the start of each fiscal year.

ACTION:

Staff recommends approval of Award and Contract with Glorieta Geoscience, a Division of GZA.

Approval:
Approved by BDDB August 3, 2023

_____
BDD Chair Anna Hamilton

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Lee Garcia, District 3
Chris Rivera, District 3
Jamie Cassutt, District 4
Amanda Chavez, District 4

DATE: July 13, 2023

TO: Travis Dutton-Leyda, Chief Procurement Officer
City of Santa Fe

FROM: Monique M. Maes – Procurement Manager for BDD, Contracts Administrator

SUBJECT: Evaluation Committee Report, Technical Services for BDD
RFP # 23/63/P

In accordance with the Buckman Direct Diversion's ("BDD's") Request for Proposals for Technical Services, RFP # 23/63/P issued on May 5, 2023, one (1) responsive proposal, was timely received from Offeror:

- Glorieta Geoscience, a Division of GZA GeoEnvironmental, also known as ("GGI").

and evaluated by the committee.

Summary of Evaluation, Committee Activity

The Evaluation Committee Members consisted of the following individuals:

Matthew Sandoval, BDD Lead Operator
Rick Carpenter, BDD Facilities Manager
Alan Hook, Water Resources Coordinator

This Evaluation Committee Report summarizes all criteria used in scoring the responses:

- May 5, 2023: RFP# 23/63/P was issued by the City of Santa Fe on behalf of BDD.
- June 13, 2023: The Central Procurement Office held a pre-evaluation meeting with the committee members and the Procurement Manager for instruction overview.

- June 13, 2023: Central Purchasing Office sent the technical proposal to the Evaluation Committee members for their individual review.
- June 20, 2023: Evaluation Committee met to discuss their review of the proposal while the Procurement Manager was in attendance. All scoresheets and notes were submitted to the Central Procurement Office and the Evaluation Committee received the cost proposal from the Central Procurement Office

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Section IV.B TECHNICAL SPECIFICATIONS

Section IV.B.1.a Organizational Experience (225 total points)

Offeror	GGI
Organizational Experience Total	210

Specification:
Offeror must:

Provide a descriptive narrative of three (3) projects completed within the past (5) five years demonstrating specific expertise and experience similar to the scopes of work as listed herein.
For all Projects provide the following information:

- Project title, location, and description
- Project costs
- Year performed services
- Project manager
- Services provided
- Project owner's name
- Client contact person, address, and phone number

Evaluation Factor:

Organizational Experience Narrative

A maximum of 75 Points per project for a total of 190 points will be awarded based on the thoroughness and clarity of the narrative of the engagements cited and the perceived validity of the response.

GGI
The Evaluation Committee awarded GGI 190 points based on the Offeror's response. GGI provided narratives for three projects in the past 5 years, as the RFP requested. They cited specific experience as Technical Team Leader for *ad hoc* technical groups to evaluate water quality for not only BDD but City and County staff as well. The three narrative projects included the title and owner name, dates of service, Project Manager, and type of services. The proposal addressed all factors in this category and met all requirements except for project costs. Points were deducted for not providing project cost.

Section IV.B.1.b Regulatory Experience (200 total points)

Offeror	GGI
Regulatory Organizational Experience Total	190

Specification:
Offeror must:

Thoroughly describe the Offeror's and the proposed sub-contractor's qualifications, capabilities and expertise with procedural and regulatory requirements in the following areas as they pertain to the three (3) projects identified by the Offeror in section IV.B.1.a:

i. Storm water regulation and data collection and analysis
ii. Surface water regulation and data collection and analysis
iii. Drinking water regulation, processing, and data collection and analysis
iv. Knowledge of and experience with New Mexico and Federal water quality regulations and laws.

Evaluation Factors:
Points will be awarded on the thoroughness and clarity of the narrative the offeror provides on the overall experience in procedural and regulatory requirements as it relates to this RFP.

GGI
The Evaluation committee awarded GGI 190 points based on the Offeror's response. GGI was thorough in their narratives detailing their processes of how they have conducted storm and surface water quality sampling and how they've analyzed their data. They described their knowledge as providing expert witness testimony on a wide variety of environmental projects in a range of regulatory and nonregulatory frameworks. GGI serves Federal, State, and Municipal entities, Tribal governments, private corporations, and individuals. However, they did not cite specific regulatory examples. Points were deducted for lack of clarity in specific regulatory examples.

Section IV.B.1.c. Resumes (175 points) and successes and failures (100 points) - (275 total points)

Offeror	GGI
Resumes and Success and Failures Points Total	256.7

Specification:
Offeror must:

Provide a detailed resume of all key personnel, including proposed subcontractors or other professional staff involved in the field of technical and regulatory support. Include the qualifications of key personnel to be used in satisfying the Scope of Work of this Request for Proposals. Key personnel is labeled in Appendix C, Cost Response, and subcontractors are identified as Subject Matter Experts. Offerors must include a copy of their applicable professional certifications.

Describe at least two project successes and failures of a technical assistance project. Include how each experience improved the Offeror's services.

Evaluation Factors:
Points will be awarded on the relevancy of experience, certifications or licenses, and knowledge or personal education, of key personnel submitted in a detailed resume. Points will be awarded based on the Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

GGI
The Evaluation Committee awarded GGI 256.7 points based on the Offeror's response. Professional licenses and resumes of key personnel were provided and show well over 84 years of appliable experience in the field of Technical Services as well as relevant graduate degrees. GGI provided successes and failures and although the responses were candid, points were deducted for not clearly including how the experience improved the Offeror's services.

Section IV.B.2. Organizational References (75 total points)

Offeror	GGI
Organizational References Points Total	75

Specification:

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, city, state, or large local government clients within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

a) Client name;
b) Project description;
c) Project dates (starting and ending);
d) Staff assigned to reference engagement that will be designated for work per this RFP; and
e) Client project manager name, telephone number, fax number and e-mail address.

Offeror is required to submit APPENDIX E, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX E. The business references must not return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to ensure the completed forms are submitted on or before the date indicated in Section II.A, Sequence of Events, for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments.

Evaluation Factors:

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix E). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the City reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror/Respondent/Respondent responsibility per Section II.C.18.

GGI

The Evaluation Committee awarded GGI 75 points based on the references received. Three completed reference questioners all provided a) their name b) a description of the project, c) dates, d) staff assigned and, e) Project Manager contact info.

The comments and feedback rated GGI as "excellent" on all questions. All three references would recommend GGI's services to their organization again in the future.

Section IV.C.1 - Letter of Transmittal Form (Pass/Fail)

Offeror	GGI
Pass/Fail	Pass

Specification:

The Offeror/Respondent/Respondent's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX D. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.30 and APPENDIX D, and to return a signed, unaltered form will result in Offeror/Respondent/Respondent's disqualification.**

Evaluation Factors:

Pass/Fail only. No points assigned.

GGI

GGI submitted a completed Letter of Transmittal Form as required by the RFP. GGI received a "Pass."

Section IV. C.2. Campaign Contribution Disclosure Form (Pass/Fail)

Offeror	GGI
Pass/Fail	Pass

Specification:

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror/Respondent/Respondent's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror/Respondent/Respondent's disqualification.**

Evaluation Factors:

Pass/Fail only. No points Assigned.

GGI

GGI submitted a Campaign Contribution disclosure form as required by the RFP. GGI received a "Pass."

C.5. Cost (225 Total Points)

Offeror	GGI
Cost Points Total	225

Specifications:

Offeror/Respondent/Respondents must complete the Cost Response Form in APPENDIX C. Cost will be measured by the gross lump sum price submitted to meet the stated scope of work listed in the RFP. All charges listed on APPENDIX C must be justified and evidence of need documented in the proposal.

Evaluation Factors:

The evaluation of each Offeror/Respondent/Respondent's cost proposal will be conducted using the following formula:

$$\frac{\text{Lowest Responsive Offeror's Cost}}{\text{Each Offeror's Cost}} \times 225$$

GGI

The Evaluation Committee awarded GGI 225 points based on the Offeror's response. Their response was the only response and therefore they have the lowest responsive cost.

Section IV.C.4 - NM Preferences Preference (30/60 Points)

Offeror	GGI
NM Business Certificate	60

Specification:

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **MUST** include a copy, in this section, of its NM Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department.

Evaluation Factor: To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

A. The City shall award additional 3% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.

B. When the City makes a purchase using a formal request for proposals process and the contract is awarded based on a point-based system, the City shall award additional points equivalent to 3% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

C. Solicitations above One Million Dollars ($1,000,000)

1. The City shall deem a bid or proposal submitted by a resident business to be 6% lower than the bid actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.

2. The City shall deem the bid or proposal submitted by a non-local resident business to be 3% lower than the bid actually submitted, if and only at least 50% of the sub- contracted services go to subcontractors who are resident businesses.

GGI

GGI did provide a state of New Mexico preference certificate from the Tax and Revenue Department with a local Santa Fe address and therefore received 60 points.

Evaluation Points Summary:

Evaluation Factors	GGI
B.1.a Organizational Experience	210
B.1.b Regulatory Experience	190
B.1.c-d Resumes Success/ Failures	256.7
B.2 Organizational References	75
C.4 Cost	225
C.3. Letter of Transmittal (Pass/Fail)	Pass
C.4. Campaign Disclosure Form (Pass/Fail)	Pass
C.5. BDD Local Preference per Section IV C. 2	60
C.6. BDD Local Preference using Local Subcontractors Section IV C.2	0

TOTAL POINTS AWARDED	**1016.70**

Evaluation Committee Recommendations:

Based on the Evaluation Committee's evaluation of the proposal submitted, as detailed above, the committee respectfully recommends awarding a contract to perform the scope of work as outlined in the Technical Services for the Buckman Direct Diversion RFP # 23/63/P to the one (1) proposal received, Glorieta Geo Science a division of GZA GeoEnvironmental; subject to agreement between the Buckman Direct Diversion and the selected Offeror. Awarding the contract to the recommended Offeror is the in the best interest and most advantageous to the BDD.

Committee Signature Approval

Matthew Sandoval (Jul 19, 2023 09:47 MDT)

Matthew Sandoval
Evaluation Committee Member

Jul 19, 2023
Date

Rick Carpenter
Rick Carpenter (Jul 25, 2023 07:42 MDT)

Rick Carpenter
Evaluation Committee Member

Jul 25, 2023
Date

Alan Hook
Alan Hook (Jul 25, 2023 10:43 MDT)

Alan Hook
Evaluation Committee Member

Jul 25, 2023
Date

Monique Maes
Monique Maes (Jul 13, 2023 16:09 MDT)

Monique Maes
Procurement Manager/BDD

Jul 13, 2023
Date

Chief Procurement Officer Signature Approval

Travis Dutton-Leyda
Procurement Officer
City of Santa Fe

Jul 25, 2023
Date

BUCKMAN DIRECT DIVERSION BOARD
PROFESSIONAL SERVICES AGREEMENT
WITH
GLORIETA GEOSCIENCE, A DIVISION OF GZA GEOENVIRONMENTAL

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into by and between the Buckman Direct Diversion Board ("BDDB") and ("Contractor"). The effective date of this Agreement shall be the date when it is executed by the BDDB.

1. SCOPE OF SERVICES

Contractor shall provide services for the BDDB described as follows:

a. Contractor shall provide services for the BDDB as described as follows: Participate with and act as Technical Team Leader for *ad hoc* technical groups (including but not limited to BDDB, City of Santa Fe and Santa Fe County staff) to provide evaluations of water quality data from the BDD Project ("BDD") treatment works and other sources, assessment of analytical data, regulatory framework and disposal alternatives for treatment media.

b. Evaluate existing BDDB data, staff conclusions, and recommendations to improve BDD decision making concerning environmental sampling, compliance, and study design.

c. Serve as Technical Team Leader for *ad hoc* technical groups (including but not limited to BDDB, City of Santa Fe and Santa Fe County staff) to develop data quality objectives, sampling and analysis plans and processes, quality assurance project plans, data verification and validation protocols and develop data assessment tools as they relate to future water quality studies of BDD background, intake, treatment and finished water.

d. Assist BDDB, City, and County staff in public engagement and outreach strategies information exchange and dissemination and management of technical issues related to BDD.

e. Assist BDDB, City and County staff in developing and implementing a memorandum of understanding with Los Alamos National Laboratory concerning its interaction with support of and interest in the BDD.

f. Develop or present an as needed technical report of assessment and analysis of ground water quality impacts to surface water quality.

g. Develop or present an as needed technical report of assessment and analysis of sediment transport from the Pajarito Plateau.

h. Assist BDD staff and consultants with LANL water quality impacts/issues.

i. Conduct Surveillance sampling of the Rio Grande near to and upstream of the BDD intake.

j. Technical support for BDD staff and the BDDB.

k. Preform other related tasks as assigned by the BDDB.

2. STANDARD OF PERFORMANCE; LICENSES

A. Contractor represents that Contractor possesses the personnel, experience, and knowledge necessary to perform the Scope of Services described in this Agreement. Contractor shall perform its services in accordance with generally accepted standards and practices customarily utilized by competent consulting firms in effect at the time Contractor's services are rendered.

B. 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. Compensation under this Agreement shall be Forty Thousand Dollars ($40,000.00), plus applicable New Mexico gross receipts tax, paid in accordance with the fee schedule attached hereto as Exhibit A.

B. 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 BDDB of detailed statements containing a report of services completed. Compensation shall be paid only for services performed.

4. APPROPRIATIONS

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

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the BDDB and terminate on June 30, 2024. This Agreement may be extended in one (1) year increments by amendment to this Agreement in accordance with Paragraph 18, AMENDMENT, herein and contingent upon satisfactory performance and funding availability. In no event, however, shall the term of this Agreement, including all extensions, exceed four (4) years.

6. TERMINATION

A. This Agreement may be terminated by the BDDB upon 30 days written notice to Contractor. In the event of such termination:

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

(2) If payment has not already been made, Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination. If full payment has been made, Contractor agrees to prorate for work accomplished and refund all amounts earned.

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

A. Contractor and its agents and employees are independent contractors performing professional services for the BDDB and are not employees of the BDDB. Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of BDDB vehicles, or any other benefits afforded to employees of the BDDB 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 contractors retained by Contractor in the performance of the services under this Agreement.

C. 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 Agreement.

8. CONFIDENTIALITY

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

9. CONFLICT OF INTEREST

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

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 BDDB.

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the BDDB.

11. RELEASE

Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the BDDB, City of Santa Fe, Santa Fe County, Las Campanas Water and Sewer Cooperative and The Club at Las Campanas; their officers, officials, and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. If not completed at the time of final payment, Contractor shall remain obligated to complete the Scope of Services and other obligations of this Agreement. Contractor agrees not to purport to bind the BDDB to any obligation not assumed herein by the BDDB unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. Contractor shall not begin the Professional Services required under this Agreement until it has: (i) obtained, and upon the BDDB's request provided to the BDDB, insurance certificates reflecting evidence of all insurance required herein; however, the BDDB reserves the right to request, and Contractor shall submit, copies of any policy upon reasonable request by the BDDB; (ii) obtained BDDB approval of each company or companies as required below; and (iii) confirmed that all policies contain the specific provisions required. Contractor's liabilities, including but not limited to Contractor's indemnity obligations, under this Agreement, shall not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this Agreement and Contractor's failure to maintain or renew coverage or to provide evidence of renewal during the term of this Agreement may be treated as a material breach of Agreement by the BDDB.

B. Further, Contractor shall not modify any policy or endorsement thereto which increases the BDDB's exposure to loss for the duration of this Agreement.

C. **Types of Insurance.** At all times during the term of this Agreement, Contractor shall maintain insurance coverage as follows:

(1) **Commercial General Liability.** Commercial General Liability (CGL) Insurance must be written on an ISO Occurrence form or an equivalent form providing coverage at least as broad which shall cover liability arising from all bodily injury, personal injury or property damage providing the following minimum limits of liability.

General Annual Aggregate (other than Products/Completed Operation)	$1,000,000
Products/Completed Operations Aggregate Limit	$1,000,000
Personal Injury Limit	$1,000,000
Each Occurrence	$1,000.000

(2) **Automobile Liability.** For all of Contractor's automobiles including owned, hired, and non-owned automobiles, Contractor shall keep in full force and effect, automobile liability insurance providing coverage at least as broad for bodily injury and property damage with a combined single limit of not less than $1 million per accident. An insurance certificate shall be submitted to the BDDB that reflects coverage for any automobile [any auto].

(3) **Professional Liability.** For Contractor and all of Contractor's employees who are to perform professional services under this Agreement, Contractor shall keep in full force and effect, Professional Liability insurance for any professional acts, errors, or omissions. Such policy shall provide a limit of not less than $1,000,000 per claim and $1,000,000 annual aggregate. Contractor shall ensure both that: (i) the policy retroactive

date is on or before the date of commencement of the first work performed under this Agreement; and (ii) the policy will be maintained in force for a period of three years after substantial completion of the project or termination of this Agreement whichever occurs last. If professional services rendered under this Agreement include work relating to environmental or pollution hazards, Contractor's policy shall not contain exclusions for those activities.

(4) **Workers' Compensation.** For all of Contractor's employees who are subject to this Agreement and to the extent required by any applicable state or federal law, Contractor shall keep in full force and effect, a Workers' Compensation policy & Employers Liability policy. That policy shall provide Employers Liability Limits as follows:

Bodily Injury by Accident	$500,000	Each Accident
Bodily Injury by Disease	$500,000	Each Employee
Bodily Injury by Disease	$500,000	Policy Limit

Contractor shall provide an endorsement that the insurer waives the right of subrogation against the BDDB, City of Santa Fe, Santa Fe County, Las Campanas Water and Sewer Cooperative and The Club at Las Campanas; their respective elected officials, officers, employees, agents, volunteers and representatives.

D. **Cancellation.** Except as provided for under New Mexico law, all policies of insurance required hereunder must provide that the BDDB is entitled to thirty (30) days prior written notice (10 days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies as evidence by an endorsement to the policies which shall be attached to the certificates of insurance. Cancellation provisions in insurance certificates shall not contain the qualifying words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives". In the event Contractor's

insurance carriers will not agree to this notice requirement, Contractor will provide written notice to the BDDB within four working days of Contractor's receipt of notice from its insurance carrier(s) of any cancellation, nonrenewal or material reduction of the required insurance.

E. **Insurer Requirements.** All insurance required by express provision of this Agreement shall be carried only by responsible insurance companies that have rated "A-" and "V" or better by the A.M. Best Key Rating Guide, that are authorized to do business in the State of New Mexico, and that have been approved by the BDDB. The BDDB will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of New Mexico.

F. **Deductibles.** All deductibles or co-payments on any policy shall be the responsibility of Contractor.

G. **Specific Provisions Required.**

(1) Each policy shall expressly provide, and an endorsement shall be submitted to the BDDB, that the policy or policies providing coverage for Commercial General Liability must be endorsed to include as an Additional Insured, the BDDB, City of Santa Fe, Santa Fe County, Las Campanas Water and Sewer Cooperative and The Club at Las Campanas; their respective elected officials, officers, employees, agents, volunteers and representatives.

(2) All policies required herein are primary and non-contributory to any insurance that may be carried by the BDDB, City of Santa Fe, Santa Fe County, Las Campanas Water and Sewer Cooperative and The Club at Las Campanas; their respective elected officials, officers, employees, agents, volunteers and representatives, as reflected in an endorsement which shall be submitted to the BDDB.

(a) Contractor agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the BDDB's exposure to loss.

(b) Before performing any Professional Services, Contractor shall provide the BDDB with all Certificates of Insurance accompanied with all endorsements.

(c) The BDDB reserves the right, from time to time, to review Contractor's insurance coverage, limits, and deductible and self-insured retentions to determine if they are acceptable to the BDDB. The BDDB will reimburse Contractor for the cost of the additional premium for any coverage requested by the BDDB in excess of that required by this Agreement without overhead, profit, or any other markup.

(d) Contractor may obtain additional insurance not required by this Agreement.

13. INDEMNIFICATION

General Indemnification. To the greatest extent permitted by law, Contractor shall indemnify, hold harmless and defend the BDDB, City of Santa Fe, Santa Fe County, Las Campanas Water and Sewer Cooperative and The Club at Las Campanas; their respective elected officials, officers, employees, agents, volunteers and representatives 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 Contractors performance or non-performance under this Agreement as well as the performance or non-performance of Contractor's employees, agents, representatives and subcontractors or any tier.

Indemnification for Professional Acts, Errors or Omissions. Except for professional acts, error or omissions that are the result of established gross negligence or willful misconduct on the part of Contractor, or its employees, agents, representatives or sub-consultants, the General Indemnification shall not apply to professional acts, errors or omissions unless covered by Professional Liability insurance required in this Agreement.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the BDDB in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, *et seq.*, as amended. The BDDB and their "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 BDDB and 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, DOCUMENT CONTROL AND AUDIT

A. Contractor shall conform with and participate in the Document Control policies of the BDDB or City of Santa Fe. Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, all records that relate to the scope of services provided under this Agreement.

B. Detailed records that indicate the date, time and nature of services rendered shall also be retained for a period of three years after the term of this agreement expires. These records shall be subject to inspection by City of Santa Fe, the Department of Finance and Administration, the State Auditor. The BDDB and City of Santa Fe shall have the right to audit the billing both before and after payment to Contractor. Payment under this Agreement shall not foreclose the right of the BDDB or City of Santa Fe 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 BDDB. In any action, suit or legal dispute arising from this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. 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 requests, demands, waivers and other communications given as provided in this Agreement will be in writing and will be deemed to have been given if delivered in person (including by Federal Express or other personal delivery service), or mailed by certified or registered mail, postage prepaid, and addressed to Seller or Buyer at the following addresses:

BDDB:
Rick Carpenter
Facilities Manager
Buckman Direct Diversion
341 Caja Del Rio Road
Santa Fe, NM 87506
Email: rrcarpenter@ci.santa-fe.nm.us

With a copy to:
Nancy R. Long, Esq.
BDDB Independent Counsel
Long, Komer & Associates, P.A.
Santa Fe, NM 87502-5098

CONTRACTOR: TO BE DETERMINED

Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

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

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]

BUCKMAN DIRECT DIVERSION BOARD

By: _____
Anna Hamilton, BDDB Chair

Date: _____

APPROVED AS TO FORM

Nancy R. Long
Nancy R. Long, BDDB Counsel

ATTEST

_____
County Clerk

APPROVED

_____
City Finance Director

ATTEST

_____
City Clerk

File Date: _____

CONTRACTOR:
GLORIETA GEOSCIENCE,
A DIVISION OF GZA
GEOENVIRONMENTAL

Signature:_____

Printed Name: _____

Title: _____

Date: _____

NM Taxation & Revenue
CRS #_____

City of Santa Fe Business
Registration #_____