



State of New Mexico General Services Department

Contract Cover Page

Awarded Vendor:
0000164197
Point and Pay, LLC
dba Point & Pay
110 State Street East
Oldsmar, FL 34677

Contact: Kevin Connell
Email: kconnell@pointandpay.com
Telephone: (888) 891-6064 ext. 5738

Contract Number: **10-34100-21-16147**

Payment Terms: **Net 30**

F.O.B.: **Destination**

Delivery: **See Contract**

Ship To:
New Mexico Department of Finance &
Administration – State Board of Finance
181 Bataan Memorial Building
407 Galisteo Street
Santa Fe, NM 87501

Procurement Specialist: **Vanessa LeBlanc** *VL*

Telephone No.: **(505) 629-9525**

Email: **Vanessa.LeBlanc@state.nm.us**

Invoice:
Same as Ship To

For questions regarding this contract please contact:
Ashley Leach (505) 629-9745

Title: Online Bill Presentment and Payment (OBPP)

Term: February 21, 2022 thru February 20, 2030

This Contract is made subject to the “terms and conditions” as indicated on the attached Contract.

JDZ

State of New Mexico

State Board of Finance

Agreement No.: 10-34100-21-16147

THIS AGREEMENT is made and entered into by and between the **State Board of Finance of the State of New Mexico**, hereinafter referred to as the "Board" and **Point and Pay, LLC d/b/a Point & Pay**, hereinafter referred to as the "Contractor" and collectively referred to as the "Parties".

WHEREAS, pursuant to the Procurement Code, NMSA 1978 Sections 13-1-28 *et. seq.* and Procurement Code Regulations, NMAC 1.4.1 *et. seq.* the Contractor has held itself out as an entity with the ability to provide the required services to implement the Scope of Work as contained herein and the Board has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the RFP #10-34100-21-16147 Online Bill Presentment and Payment (OBPP) and the Contractor's response to such document(s) are incorporated herein by reference;

NOW THEREFORE, THE FOLLOWING TERMS AND CONDITIONS ARE MUTUALLY AGREED BETWEEN THE PARTIES:

1. Definitions.

As used in this Agreement:

- A. "Agency" means the State Purchasing Division of the General Services Department or that State Agency sponsoring this Procurement.
- B. "ACH" means the Automated Clearing House.
- C. "Appropriate State Official(s)" means, but is not limited to, the State Board of Finance, the contract administrator for this Agreement designated by the Board, the State Treasurer, the State Auditor, the Financial Institutions Division of the Regulation and Licensing Department, the Office of the Attorney General, the Department of Finance and Administration, and their representatives.
- D. "Authorized Agency" means each department, agency, branch, council, commission, board, and instrumentality and institution of government of the State of New Mexico authorized to use services under this contract.
- E. "Business Days" means Monday through Friday excluding state holidays and bank holidays.

- F. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.
- G. "Close of Business" means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
- H. "Collected Balance(s)" means ledger balance, less uncollected deposited items.
- I. "Compensating Balance" means a balance on which no interest is paid to the account holder and any earnings are retained by the Contractor as compensation for services under the Agreement.
- J. "Fiscal Agent" means the Contractor or Contractors assigned to provide services consistent with Title 2, Chapter 60, Part 7 NMAC.
- K. "New Mexico State Purchasing Agent" or "NMSPA" means the purchasing agent for the State of New Mexico or a designated representative. May be used interchangeably with "State Purchasing Agent" or "SPA".
- L. "Online Bill Presentment and Payment" means the online platform for the posting of invoice information, collection of payment data, conveyance of data to the relevant Agency, conveyance of transaction to the Fiscal Agent, or processing of transactions for settlement.
- M. "Opening Available Balance" means prior day collected balance plus previous day one day float.
- N. "RFP" means Request for Proposals as defined in statute and rule.
- O. "Special Correspondent Bank" means any bank other than the Contractor that provides services for the benefit of the State as required under this Agreement.
- P. "State" means the departments, agencies, branches, commissions, boards, and instrumentalities and institutions of government of the State of New Mexico.
- Q. "State Account" or "State Accounts" means all deposit accounts at the Bank of the State Treasurer and of other State departments, agencies, branches, commissions, boards, and instrumentalities and institutions of the State maintained pursuant to this Agreement, but excluding accounts of State departments, agencies, branches, commissions, boards, and instrumentalities and institutions of the State that are established pursuant to a separate agreement, and excluding trust accounts containing non-state funds and time deposits bearing the interest rate established by the Board for the deposit of public funds, pursuant to Sections 6-10-30 and 6-10-36 NMSA 1978. Upon written request by the State Treasurer, State Accounts shall include the Local Government Investment Pool. All deposit accounts established

hereunder shall be specifically identified as "State of New Mexico - Fiscal Agent Account".

- R. "State Agency" means any department, commission, council, board, committee, and instrumentality and institution of the government of this state. "State agency" includes the Purchasing Division of the General Services Department and the State Purchasing Agent but does not include local public bodies.
- S. "Treasurer" means the Treasurer of the State of New Mexico.
- T. "We," "us" or "our" refers to the State of New Mexico, agencies, commissions, and institutions, allowed by law to participate in the Agreement and whose accounts are created under this Agreement.
- U. "You" and "your" refers to (Contractor Name).

2. Scope of Work.

The Contractor shall perform the work as outlined in Exhibit A, attached hereto and incorporated herein by reference.

3. Additional Services

The State may request additional services to be provided or billed as may be required for training, new services, or enhancement of existing services. Any additional services during the term of this Agreement, shall require a written amendment pursuant to Section 18 of this Agreement and prior approval of the Board.

4. Errors

All errors occurring in the operation of this Agreement shall be corrected in a timely manner and back value credit given to the original date of the transaction for purposes of the account analysis. Errors will be separately stated as backdated adjustments. Compensation may be requested either by the Treasurer or the Board.

5. Assumption of Obligations and Related Costs

The Contractor agrees that it shall conduct a reconciliation of all accounts transferred no later than thirty (30) days after assuming its obligations under this Agreement. The Contractor agrees that it shall bear any and all costs associated with the transfer and assumption of obligations by the Contractor under this Agreement.

6. Costs of Transfer to Successor

The Contractor agrees that it shall conduct a reconciliation of the transition no later than thirty (30) days after any transfer of the relationship. The Contractor agrees that it shall bear all costs associated with any transfer of any accounts or other assets of the State to any successor Contractor upon Contractor's termination of this agreement without cause.

7. Continuing Obligation

For sixty (60) days following expiration or termination of this Agreement, the Contractor agrees that it will be under a continuing duty, without charge to the State, to provide access to all reporting, administration, and related non-transaction service components to enable transition until all assets and funds of the State have been successfully transferred to the successor Contractor.

8. HIPAA Compliance

The Contractor (as a Business Associate) shall enter into any separate agreements with the New Mexico Department of Health (as a Covered Entity) and any other individual Agency as may be necessary to ensure the State's and the Contractor's compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), and regulations promulgated thereunder by the U.S. Department of Health and Social Services, and any subsequent amendments or modifications thereto. Notwithstanding the provision of any such agreement, the Contractor may not charge any fees or expenses other than those contained in Exhibit B to this Agreement relating to the required compliance without prior approval of the Board pursuant to Section 9 of this Agreement.

9. Compensation.

1. Compensation Schedule. The Board shall pay to the Contractor based upon fixed price per the schedule outlined in the Contractor's costs and fees Schedule, outlined in Exhibit B, attached hereto and incorporated by reference. Point & Pay reserves the right to change the amount of such fee in the event of a material change in the underlying cost of providing services. Examples of change requiring fee revision include, but aren't limited to: changes to the interchange and policies of Visa, MasterCard, American Express, and Discover, changes to ACH fee structure, changes to the fee structures of Point & Pay's processing partners, etc. Point & Pay shall notify SBOF of any changes stemming from this term at least sixty (60) days prior to such changes becoming effective.

2. Where applicable, payment shall be made on a quarterly basis and upon the receipt and acceptance of a detailed, certified Payment Invoice containing all fees incurred during the relevant quarter. Payment will be made to the Contractor via ACH payment to the bank account designated by the Contractor for the payment of invoices, or to the Contractor's designated mailing address. In accordance with NMSA 1978, Section 13-1-158 payment shall be tendered to the Contractor within thirty (30) days of the date of written certification

of Acceptance. All Payment Invoices MUST BE received by the Board no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

10. Taxes.

The Contractor shall be reimbursed by the Board for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. **PLEASE NOTE NO PROPERTY TAX WILL BE PAID TO THE CONTRACTOR BY THE STATE.** The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Board harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

11. Retainage.

Not Applicable – The Parties agree there is no retainage.

12. Statutory Requirements

The Contractor shall ensure compliance with Section 6-10-35 NMSA 1978, as well as other applicable laws and regulations of the State of New Mexico.

13. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE FINAL REQUIRED SIGNATORY. This Agreement shall run concurrently with the fiscal agent agreement between the Board and the fiscal agent selected pursuant to RFP#10-34100-21-16143 (*Fiscal Agent Agreement*). Upon termination of the Fiscal Agent Agreement this Agreement shall run concurrently with any successor fiscal agent agreement the Board enters into, but in any event this Agreement shall begin on the date approved by the Final Required Signatory and shall end no later than eight years following that date, unless terminated pursuant to this Agreement's Termination Clause or Appropriations Clause.

14. **Termination**

A. Grounds. The Board may terminate any of all services provided for under this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Board's uncured, material breach of this Agreement.

B. Notice; Board Opportunity to Cure.

1. Except as otherwise provided in sub-paragraph A of this Clause and the Appropriations Clause of this Agreement, the Board shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Board written notice of termination at least one hundred and eighty (180) days prior to the intended date of termination, which notice shall (i) identify all the Board's material breaches of this Agreement upon which the termination is based and (ii) state what the Board must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Board does not cure all material breaches within the one hundred and eighty (180) day notice period or (ii) in the case of material breaches that cannot be cured within one hundred and eighty (180) days, the Board does not, within the one hundred and eighty (180) 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, or in the event that continued performance by the Contractor would jeopardize the security of State funds under the management, possession or control of the Contractor, as determined by the Board; (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 the Appropriations Clause of this Agreement. The Contractor shall have reasonable opportunity to appear before the Board to present its position concerning such termination. The Contractor and the Board further agree that the Board's determination regarding the potential jeopardy of Sate funds shall be final and shall be binding upon both the Board and the Contractor.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Board'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 BOARD'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

15. **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 Board to the Contractor. The Board's decision

as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Board 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.

16. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional or general services for the Board 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.

17. 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 any way 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 Board employee while such employee was or is employed by the Board and participating directly or indirectly in the Board'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 Board'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 Board.

c. Contractor's representations and warranties in paragraphs A and B of this Clause are material representations of fact upon which the Board relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Board 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 Clause 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 Clause 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 Board and notwithstanding anything in the Agreement to the contrary, the Board may immediately terminate the Agreement.

d. All terms defined in the Governmental Conduct Act have the same meaning in this Agreement.

18. 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 Board 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 the Terminations Clause of this Agreement, or to agree to the reduced funding.

C. If additions or changes in services are requested by the State, the Contractor shall present a cost analysis and proposal for the Board's review and approval. The cost analysis and proposal provided by the Contractor must include at a minimum three schedules detailing: 1) a complete listing of previously agreed-upon costs and fees; 2) a complete listing of all costs and fees to take effect upon approval of the proposed Amendment with additional costs and fees clearly marked as "new"; and 3) a direct mapping of any proposed

changes to the name or description of costs and fees. Contractor shall provide the cost analysis and proposal in PDF and Microsoft Excel formats. No payment for such added or changed services shall be made until an amendment has become effective.

19. 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.

20. Penalties for violation of law.

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

21. 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.

22. 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 Board.

23. 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.

24. 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 Appropriate State Officials. The Board shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Board to recover excessive or illegal payments. Notwithstanding the foregoing, records relating to financial transactions shall be maintained on a rolling, seven-year basis from the date of such transaction.

25. Cooperation with Agency Audits

The Contractor agrees to cooperate with and make space available for auditors when audits are made of any Agency for which services are being provided under this Agreement.

26. 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.

27. Enforcement of Agreement

A party's failure to require strict performance of any provision of this Agreement shall not waive or 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.

28. Non-Collusion

In signing this Agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or agency or entity.

29. 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 the Board:
Director, Board of Finance
181 Bataan Memorial Building
407 Galisteo Street
Santa Fe, NM 87501

To the Contractor:
Kevin Connell, Chief Executive Officer
Point and Pay, LLC d/b/a/ Point & Pay
110 State Street East
Oldsmar, FL 34677

30. Succession

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

31. Headings

Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

32. Default/Breach.

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the Board and the State of New Mexico may procure the goods or Services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the Board and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

33. Equitable Remedies.

Contractor acknowledge that its failure to comply with any provision of this Agreement will cause the Board irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Board, and the Contractor consents to the Board's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Board's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Board may have under applicable law, including, but not limited to, monetary damages.

34. 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 this Agreement, Contractor certifies, by signing this agreement, to have in place, and agree to maintain for the term of the Agreement, 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 programs by providing each employee with, as a minimum, the following web site link to additional information: <https://bewellnm.com>.

35. Indemnification

The Contractor agrees to wholly indemnify the state, for any and all loss, damage, cost, damages, expenses (including, without limitation, legal fees and expenses) and liability to the state (collectively hereinafter “loss”) resulting from errors, omissions, fraud, embezzlement, theft, negligence or neglect (collectively hereinafter “actions or omissions”) by the Contractor, and its employees, officers, agents and directors in performing their duties hereunder or under agreement, as applicable..

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 Board and the Risk Management Division of the New Mexico General Services Department by certified mail.

The State shall not be entitled to indemnification from the Contractor for any Loss to the State resulting from errors, omissions, fraud, embezzlement, theft, negligence or neglect by the Human Services Department (HSD), Public Employee Retirement Association (PERA), Educational Retirement Board (ERB), Environment Department (NMED), or by the Higher Education Department (NMHED), or by any other State agency that utilizes the services provided under this contract, in performing its obligations related to online bill presentment and payment except when the Contractor has actively participated with the Agency in such actions or omissions and then only to the extent of that participation; however, any liability of the Contractor to a Payer or Payee is solely that of the Contractor, and not that of the State. The Board will further be responsible for the accuracy of taxpayer and/or debtor account data provided to Contractor for use in providing the services. The Board/State shall not be entitled to indemnification from the Contractor for that portion of any claim or dispute based upon: (i) State’s/Board’s unauthorized modification or alteration of a product, material, or service provided by Contractor; (ii) State’s unauthorized use of the product, material, or service provided by Contractor in combination with other products, materials, or services not furnished by Contractor; or (iii) State’s unauthorized use of a product, material, or service provided by Contractor in other than the specified operating conditions and environment.

36. Default and Force Majeure.

The State reserves the right to cancel all or any part of any services provided for in this Agreement without cost to the State, if the Contractor fails to meet the provisions of this Agreement and, except as otherwise provided herein, to hold the Contractor liable for any excess

cost occasioned by the State due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the service arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the State provided in this Clause shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

37. 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 Board.

38. Subcontracting.

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

39. Inspection of Plant.

The State Purchasing Agent or agency or entity that is a party to this Agreement may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this Agreement.

40. Commercial Warranty.

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other Clause of this Agreement or order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

41. Condition of Proposed Items.

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

42. Release.

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

43. Confidentiality and Intellectual Property Ownership.

Any Confidential Information provided to the Contractor by the Board or, developed by the Contractor based on information provided by the Board 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 Board, except as may be required by the Inspection of Public Records Act. NMSA 1978, §§ 14-2-1 to -12 (1947, as amended through 2019). To the extent that any information provided to or acquired by the Contractor pursuant to this Agreement constitutes “return information” of a “taxpayer” as those terms are defined under NMSA 1978, § 7-1-3(U) and NMSA 1978, § 7-1-3(BB), the Contractor shall be subject to and bound by the confidentiality provisions of NMSA 1978, § 7-1-8-8.10.

Upon termination of this Agreement, Contractor shall deliver all Confidential Information in its possession to the Board within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the Board will result in direct, special and incidental damages.

Any Confidential Information provided by Contactor to Board/State pursuant to this Agreement will remain the exclusive property of Contactor. Board/State will disclose such Confidential Information only to those of its representatives and employees who need to know such Confidential Information for purposes of performing this Agreement, who are informed of the confidential nature of the Confidential Information and who agree, for the benefit of Contactor, to be bound by the terms of confidentiality in this Agreement. Board/State will, and will cause each of its representatives and employees, to keep confidential and not to disclose in any manner whatsoever any Confidential Information provided by Contactor pursuant to this Agreement, and not to use such Confidential Information, in whole or in part, directly or indirectly, for any purpose at any time other than for the purposes contemplated by this Agreement. Notwithstanding the foregoing, Board/State may disclose Confidential Information as necessary to comply with applicable public records laws.

For purposes of Contractor’s Confidential information, “Confidential Information” means all nonpublic or proprietary information of Contactor, including proprietary, technical, development, marketing, sales, operating, performances, cost, know-how, business and process information, computer programs and programming techniques, security features (including, without limitation, multi-level access and log-in features, audit trail setup, interfaces between the Counter Module and the Internet or IVR Modules), all record bearing media containing or disclosing such information and techniques, and anything marked confidential, that is disclosed by Contactor to Board/State pursuant to this Agreement. Confidential Information also includes the terms and conditions of this Agreement.

Except for the rights expressly granted to the Board/State in this Agreement, if any, no Contractor intellectual property right is transferred or licensed to Board/State pursuant to this

Agreement, by implication or otherwise. Contractor reserves and retains all rights, title and interests in and to the Contractor intellectual property rights, and all copies, revisions, modifications, updates, and upgrades thereof. Board/State agrees not to remove, alter or destroy any copyright, patent notice, trademark or other proprietary markings or confidential legends placed on or within any portion of the Contractor intellectual property rights. For purposes of this Agreement, “Intellectual Property Rights” means all the intellectual property, industrial and other proprietary rights, protected or protectable, under the laws of the United States, any foreign country, or any political subdivision thereof, including (a) all trade names, trade dress, trademarks, service marks, logos, brand names and other identifiers, (b) copyrights, moral rights (including rights of attribution and rights of integrity), (c) all trade secrets, inventions.

Any software developed by or on behalf of Contractor for use in connection with the services provided under this Agreement remain the exclusive property of Contractor. Board/State will not sell, transfer, barter, trade, license, modify or copy any such software. Web pages accessible through use of the Services are the copyrighted intellectual property of Contractor and may not be copied in whole or part by anyone. Any training materials (including, but not limited to, webinars and manuals) provided to Board/State by Contractor shall remain the exclusive property of Contractor. Contractor grants Board/State and Board/State’s personnel a limited, non-exclusive, non-transferrable license to use and to make copies of any training materials provided, with its personnel, solely in connection with the services provided under this Agreement. Training materials may not be modified by Board/State or its personnel or disclosed to any third party, including Board/State’s end-user customers. Board/State shall ensure all personnel shall complete and review all training materials prior to using the services.

44. Contractor Personnel.

A. Key Personnel. Contractor’s key personnel shall not be diverted from this Agreement without the prior written approval of the Board. Key personnel are those individuals considered by the Board to be mandatory to the work to be performed under this Agreement. Key personnel shall be:

Yvette Urso, PMP & CSM, Program Manager
 Jeff Qualls, Director of Application Development
 Jennell Wattonville, Product Manager
 Aly Winters, Lead QA Engineer
 Mark Ruis, CPP, Account/Relationship Manager

B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Director of the Board. For all personnel, the Board and its Director reserve the right to require submission of their resumes prior to approval. If the number of Contractor’s personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) Business Days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to the Board Director’s approval. The Board’s Director, in his or her sole discretion, may approve additional time beyond the ten (10) Business Days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the Project. The Contractor shall also make interim

arrangements to assure that the Project progress is not affected by the loss of personnel. The Board reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Board, meeting the Board's expectations.

45. Incorporation by Reference and Precedence.

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any agency response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work, each Exhibit hereto, and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the SPA or Board or entity; and (5) the Contractor's response to the request for proposals.

46. Inspection.

If this Agreement is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

47. Inspection of Services.

If this Agreement is for the purchase of services, the following terms shall apply.

A. Services, as used in this Clause, include services performed, workmanship, and material furnished or utilized in the performance of services. The Contractor's failure to perform any of the services or requirements of this Agreement shall result in a loss of compensation to the Contractor.

B. The Contractor shall provide and maintain an inspection system acceptable to the Board covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Board during the term of performance of this Agreement and for as long thereafter as the Agreement requires.

C. The Board has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places, unless otherwise prohibited by law, during the term of the Agreement. The Board shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

D. If the Board performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Agreement price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services do not conform with the requirements of this

Agreement, the Board may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in Agreement amount. When the defects in services cannot be corrected by re-performance, the Board may:

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the Agreement price to reflect the reduced value of the services performed.

F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the Board may:

- (1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Board that is directly related to the performance of such service; or
- (2) terminate the Agreement for default.

THE PROVISIONS OF THIS CLAUSE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE STATE PARTIES' TO THIS AGREEMENT OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

48. Insurance.

If the services contemplated under this Agreement will be performed on or in State facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the State of New Mexico, General Services Department or other party to this Agreement as additional insured.

A. Workers Compensation (including accident and disease coverage) at the statutory limit. Employers liability: \$100,000.

B. Comprehensive general liability (including endorsements providing broad form property damage, personal injury coverage and contractual assumption of liability for all liability the Contractor has assumed under this Agreement). Limits shall not be less than the following:

- a. Bodily injury: \$1,000,000 per person /\$1,000,000 per occurrence.
- b. Property damage or combined single limit coverage: \$1,000,000.
- c. Automobile liability (including non-owned automobile coverage): \$1,000,000.
- d. Umbrella: \$1,000,000.

C. Contractor shall maintain the above insurance for the term of this Agreement and name the State of New Mexico, General Services Department or other party to this Agreement as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this Agreement by hard copy original, facsimile, digital or electronic signature, any of which shall be deemed to be a true and original signature hereunder.

By: *Michelle Lujan Grisham*
Michelle Lujan Grisham, President
State Board of Finance

Date: 2/21/2022

By: *Kevin Connell*
Kevin Connell, Chief Executive Officer
Point and Pay, LLC d/b/a/ Point & Pay

Date: 2/9/2022

Approved for legal sufficiency:

By: *Marah deMeule*
Marah deMeule, Counsel to the Board
State Board of Finance

Date: 2/10/2022

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State to pay gross receipts and compensating taxes:

BTIN Number: 03-577027-009

NOTE: Taxation and Revenue is only verifying the registration and will not confirm or deny taxability statements contained in this contract.

By: *Ann Marie Lucero*
Taxation & Revenue Department

Date: 2/10/2022

This Agreement has been approved by the State Purchasing Agent:

By: *Valerie Paulk*
Purchasing Agent
State of New Mexico

Date: 2/21/2022

X This Agreement has been signed on behalf of the State Purchasing Agent

Exhibit A: DETAILED SCOPE OF WORK

The Contractor must be a provider of an online payment platform to post invoice information on amounts due, collect all data submitted by payers and transmit it electronically to the Agency, and convey transactions to the State Fiscal Agent or process transactions for settlement. If transactions are conveyed to the Fiscal Agent for processing, the Contract must coordinate communication of transaction details with the Fiscal Agent. Five Agencies currently utilize Online Bill Presentment & Payment (OBPP) services with more details on each use case provided herein. The Contractor may be required to provide OBPP services to additional Agencies that choose to implement the services during the contract period.

The Contractor must be able to provide customized online bill presentment and payment portals that feature the logo and color schemes to coordinate with each respective Agency. Each Agency will provide a link to the portal from its website to direct payers to complete transactions electronically and include a description of the portal option when presenting payment instructions. The portal must have the ability to accept electronic payment via debit of the payers checking or savings account and via credit or debit card. Not all Agencies will allow for payments to be made via credit or debit card.

Payment information may be collected through input to the online portal or via an IVR Response system. Any payment system capturing credit or debit card transactions must be fully compliant with the Payment Card Industry Data Security Standard (“PCI”).

At the agreement of the parties, the Contract may be modified as a result of technological and/or industry advances that occur during the term of the Contract. Any modification must be substantially within the scope of the original procurement, scope of services, fee structures and/or Contract. If these circumstances are met, the contract may be modified pursuant to Article 19 of the Contract. In no event can the contract be extended beyond the term of the original awarded Contract unless otherwise permitted by law.

Implementation and Transition of Services

The Contractor will be required to work with the incumbent Fiscal Agent, SBOF, STO, and DFA to implement services. The Contractor must provide a project coordinator to lead implementation efforts and technical resources to assist Agencies with any programming needs that arise. Should the SBOF select a new vendor at the end of the contract period, the Contractor must work in good faith with any superseding vendors along with SBOF, STO, and DFA to transition services away.

Transaction Processing

It is the SBOF’s preference to have all transactions processed by the State’s Fiscal Agent. The current Fiscal Agent contract will be expiring on April 30, 2022. The SBOF will be conducting an RFP for Fiscal Agent services and expects to determine the provider in the fourth quarter of 2021. If the Contractor cannot utilize the State Fiscal Agent for the processing of any transactions, it must provide the ability to process and settle all payments to Agency accounts at the Fiscal Agent.

Agencies accepting credit and debit card payments made through the online portal may assess a convenience or service fee on the amount of the transaction. Credit and debit card transactions received through the portal are currently processed by the State Fiscal Agent, who is responsible for setting and administering the convenience or service fee. Convenience or service fees must be collected as a separate transaction from the principal amount of the payment and cover all costs related to processing the transactions. Payers must be notified of the convenience or service fee prior to completing the payment and have the ability to cancel the transaction with no penalty upon being informed of the convenience or service fee.

Bill Presentment

The Contractor's portal will be customized to the billing or invoicing needs of each respective Agency. Certain Agencies will not utilize the bill presentment functions. For portals where no bill or amount due is provided, payment amounts will not be constrained by any minimum or maximum amount parameters. Payers making payments that are not affiliated with a bill may be expected to input additional identifying information with their payment to help the Agency in posting the payment within its systems.

Agencies providing billing details to be presented to payers through the portal will transmit amounts due and the appropriate account information electronically. The Contractor must be able to accept billing data via secure transmission protocols from Agencies. Billing data is expected to be communicated in a Comma Separated Values (CSV) or similar file type. When a bill is presented, the Contractor must have the ability to provide notification of the bill to payers via email. The Contractor must be able to restrict payment amounts to the exact amount due, as needed by each respective Agency.

In every scenario, the portal must allow for payments to be split into multiple transactions to accommodate payer preferences.

Payment Reporting

The Contractor will be responsible for collecting and transmitting information for the posting of payments to each Agency. Each Agency will have unique needs for the information collected and reported including the need to customize the file structure transmitted back to the Agency for posting. The Contractor is expected to work with each Agency on the customization of posting files to enable efficient posting and reconciliation of payments.

File Transmissions

The Contractor must be able to push or pull billing and reporting files in a secure manner compatible with each Agency's technical requirements. Agencies currently utilize Secure File Transfer Protocol (SFTP) as the primary protocol for file communication. Some Agency's may desire the ability to use an online portal for file upload or retrieval in addition to, or in lieu of, SFTP communication. The Contractor is expected to provide technical resources to work with the Agency to establish a secure method for file communication.

Payer Experience

The payment portal must have the ability to accept one-time payments as well as allow payers to establish user profiles for recurring payments. Users creating profiles must have the ability

to store payment information securely and opt in to automatic, recurring payments of amounts due. The portal must have the ability to store payment and account history for account profiles and allow users to view this information after logging in.

For portals used to collect payment from an employer, or other organization, the payer may have multiple individuals that are responsible for using the portal at any given time. The Agency would like to provide organizational payers with the ability to create multiple user profiles that can be associated with a single account. The intent is to prevent individuals working for organizational payers from having to share a single user profile for making payment.

There may be agents making payments through the portal for multiple accounts. The Agency would like to have the ability to link multiple accounts to a single user profile to accommodate these payers rather than requiring the paying agent to use a unique user profile and login routine for each payment associated with a different account.

Agencies Utilizing OBPP

1. The Human Services Division (HSD) utilizes a portal to present amounts owed and collect payments for child support obligations from non-custodial parents. This service was launched in November 2020 and is currently used for approximately 2,000 payments per month. Each month, approximately 46,000 individual billing records are generated for support obligations. The billing records include the following data: (i) case ID, (ii) member ID, (iii) first and last name and (iv) invoice number. The billing records are transmitted in a CSV file on the last business day of the month. Roughly 28% of payments are accepted by Automated Clearing House (ACH) and the remainder by credit or debit card. Credit and debit card transactions are assessed a convenience/service fee. Based on the adoption rate of payers making payments through the portal, 17,280 card transactions are expected annually with an average ticket size of \$385.
2. The Public Employees Retirement Association (PERA) utilizes a portal to collect contributions from employers. PERA maintains a Retirement Information System that generates billing data for the payment portal. Billing data (amount due) is required for employers to make a payment and only ACH transactions are accepted. The payment amount must match the amount due; over or under payments are not allowed. More than 200 employers use the portal to make contributions. Approximately 628 payments are made each month.
3. The Educational Retirement Board (ERB) utilizes a portal to collect contributions from employers. Employers making contributions are required to input the amount due when making payments. ERB does not communicate the amount due to the online payment portal. Only ACH transactions are accepted and there are no constraints on the amount of the payment accepted. Approximately 225 payments are received each month.

4. The Environment Department (NMED) utilizes a portal for the collection of payments related to various permits and other charges. Payments are accepted for only the exact billed amounts due, with approximately 2,548 bills loaded each month. Roughly 90% of payments are accepted by credit or debit card and the remainder by ACH. Credit and debit card transactions are assessed a convenience/service fee. 2,876 card transactions are expected annually with an average ticket size of \$226.
5. The Higher Education Department (NMHED) utilizes a payment portal for a small number of payments by ACH only. This portal collects 18 payments each month on average. No billing information is loaded to the portal.

The following table summarizes these needs:

Agency	Accept Debit/Merchant Cards	Convenience/Service Fee Assessed	Billing Amounts Loaded (# of bills monthly)	# of payments through portal (annual)	Debit/Merchant Card Average Ticket
Human Services Division (HSD)	Yes	Yes	46,000	24,000	\$385
Public Employees Retirement Association (PERA)	No	N/A	628	7,536	N/A
Educational Retirement Board (ERB)	No	N/A	No	2,700	N/A
Environment Department (NMED)	Yes	Yes	2,548	3,196	\$226
Higher Education Department (NMHED)	No	N/A	No	216	N/A

Exhibit B: Contractor's Costs and Fees Schedule

Service Description	Estimated Monthly Volume* (A)	Cost per Item (B)	Monthly Cost Extended (C) = (A x B)	Annual Cost Extended (C x 12)
Monthly Maintenance Charge per Portal	5		0	0
Transaction Fee for ACH Payments Received from Customer <i>*If originated through Contractor's ODFI*</i>	\$1,458	\$0.15	\$218.70	\$2,624.40
Transaction Fee for Credit/Debit Card Payments Received from Customer <i>*If processed by the Contractor *</i>	\$1,680	2.29% <i>(No flat fee per item)</i>	\$0	\$0
IVR Monthly Maintenance	\$1	\$0	\$0	\$0
IVR Transaction Processing per Minute	\$5	\$0	\$0	\$0
Bill File Uploaded/Transmitted per File	\$22	\$0	\$0	\$0
Bill Record Loaded to Portal per Record	\$49,176	\$0	\$0	\$0
Receipt Posting File per File	\$46	\$0	\$0	\$0
Receipt Posting File Monthly Maintenance	\$5	\$0	\$0	\$0
Receipt Posting File per Item	\$3,138	\$0	\$0	\$0
Estimated Total Annual Cost				
ADD ADDITIONAL REQUIRED AND EXPECTED SERVICES, INCLUDING ESTIMATED VOLUMES BELOW AS NEEDED				

*Amounts provided are estimates only and are not a guarantee of service volume.

Contractor does not anticipate any unique development costs for the implementation and/or development of the payment portals. However, Contractor retains the right to charge for such required unique implementation and/or development cost at a rate of \$150 per hour if it becomes necessary to recertify its platform with the State's selected vendor for merchant services.

Credit/Debit Card Convenience/Service Fee for Payers (HSD Portal)	2.29%; min \$2.00
(\$6.65 million estimated* total annual sales; 17,280 annual transactions; \$385 average ticket)	
Credit/Debit Card Convenience/Service Fee for Payers (ENV Portal)	2.29%; min \$2.00
(\$650 thousand estimated* total annual sales; 2,876 annual transactions; \$226 average ticket)	

*Amounts provided are estimates only and are not a guarantee of service volume.

Exhibit C:
**Additional Provisions to Electronic Credit Card
Payment Processing Contract**

Access to Payment Modules

The Board agrees to comply with and be subject to all rules and regulations of MasterCard International, Inc., (“MasterCard”), Visa International (“VISA”), Discover Network (“Discover Network”), American Express (“AXP”) (collectively, the “Rules”) and National Automated Clearing House Association rules and regulations (“NACHA Rules”), as they may exist or are modified from time to time and as applicable to Board/State’s activities under this Agreement. The Board also agrees to comply with all guidelines, policies and procedures for services provided to Board by Contractor from time to time.

E-Check Transaction Authorization

Electronic Check Services (“eCheck”) transactions are executed by creating or originating authorized ACH entries using checking account information provided by the Board’s customer. Contractor will transmit ACH entries to the State/Board’s designated financial institution, pursuant to the terms of this Contract and the NACHA Rules, with the State/Board’s designated financial institution acting as an Originating Depository Financial Institution (“ODFI”) with respect to such ACH entries.

PCI Compliance

To the extent applicable, each of the parties shall be required to comply at all times with the Payment Card Industry Data Security Standard Program (“PCI-DSS”) in effect and as may be amended from time to time during the term of the Agreement. The current PCI-DSS specifications are available on the PCI Security Standards Council website which may be amended or modified at any time: <https://www.pcisecuritystandards.org>.

Chargebacks and Returns

Without limiting any other rights it may have, Contractor will set off (a) the amount of any charge-backs, refusals to pay and returns from any amounts otherwise owing by Contractor to the Board.


Certificate Of Completion

Envelope Id: A55AC3B99D8B463D851103CE068E21C3	Status: Completed
Subject: GSD/SPD Procurement#: 10-34100-21-16147 OBPP RFP Contract	
Source Envelope:	
Document Pages: 24	Signatures: 3
Certificate Pages: 5	Initials: 1
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Vanessa LeBlanc
Time Zone: (UTC-07:00) Mountain Time (US & Canada)	13 Bataan Blvd
	Santa Fe, NM 87508
	Vanessa.LeBlanc@state.nm.us
	IP Address: 164.64.63.2

Record Tracking

Status: Original	Holder: Vanessa LeBlanc	Location: DocuSign
2/8/2022 9:15:16 AM	Vanessa.LeBlanc@state.nm.us	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: GSD	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
Travis Dutton- Leyda		Sent: 2/8/2022 9:28:26 AM
Travis.Dutton-Leyda@state.nm.us		Viewed: 2/8/2022 9:28:59 AM
IT & Construction Bureau Chief		Signed: 2/8/2022 9:29:07 AM
New Mexico General Services, State Purchasing Division		
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	
	Using IP Address: 73.127.219.222	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Kevin Connell		Sent: 2/8/2022 9:29:09 AM
kconnell@pointandpay.com		Resent: 2/9/2022 2:21:32 PM
CEO		Viewed: 2/9/2022 3:40:28 PM
Point & Pay		Signed: 2/9/2022 3:40:46 PM
Security Level: Email, Account Authentication (None)	Signature Adoption: Pre-selected Style	
	Using IP Address: 174.241.232.89	
	Signed using mobile	


Electronic Record and Signature Disclosure:
Accepted: 2/9/2022 3:40:28 PM
ID: ab51deb9-0718-4af4-8785-98a6e60f31df

Ann Marie Lucero		Sent: 2/9/2022 3:40:49 PM
AnnMarie.Lucero@state.nm.us		Viewed: 2/10/2022 7:49:13 AM
Tax Examiner Supervisor		Signed: 2/10/2022 7:49:31 AM
State of New Mexico, Dept of Information Technology		
Signing Group: 33300 - CRS Verification	Signature Adoption: Pre-selected Style	
Security Level: Email, Account Authentication (None)	Using IP Address: 164.64.133.193	

Electronic Record and Signature Disclosure:
Accepted: 6/2/2020 2:28:54 PM
ID: 4e14c1ed-cee7-47c4-9f77-dc41a9cef910

Marah deMeule		Sent: 2/10/2022 7:49:34 AM
mdemeule@nmag.gov		Viewed: 2/10/2022 1:09:41 PM
Security Level: Email, Account Authentication (None)		Signed: 2/10/2022 1:14:05 PM
	Signature Adoption: Pre-selected Style	
	Using IP Address: 76.127.9.146	

Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Ashley Leach Ashley.Leach@state.nm.us Director, State Board of Finance State of New Mexico, Dept of Information Technology Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 11/24/2020 1:02:44 PM ID: f827b806-09cc-42b5-8551-5d448e525fe5		Sent: 2/10/2022 1:14:07 PM Viewed: 2/10/2022 1:23:24 PM
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	2/8/2022 9:28:26 AM
Certified Delivered	Security Checked	2/10/2022 1:09:41 PM
Signing Complete	Security Checked	2/10/2022 1:14:05 PM
Completed	Security Checked	2/10/2022 1:14:07 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to **this Electronic Record and Signature Disclosure (ERSD)**, please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a \$1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

E. All notices and disclosures will be sent to you electronically

Unless you inform GSD otherwise according to these procedures, GSD will electronically provide you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements and other documents that are required to be provided or made available to you during the course of your electronic signature relationship with SONM. To reduce the possibility of inadvertent non-receipt, GSD prefers to provide all required notices and disclosures by the same method and to the same email or physical address that you furnish to GSD. Thus, you may receive the disclosures and notices electronically or in paper form. If you do not agree with this procedure, please inform GSD according to the procedures stated in Section I, below. Please also refer to Section D, immediately above, which states the consequences resulting from your declination of electronic delivery of notices and disclosures.

F. How to contact GSD:

You may inform General Services Department (GSD) of any changes you select regarding State Purchasing Division's (SPD) electronic communications with you, to request paper copies of certain information from SPD, and to withdraw your prior consent to receive notices and disclosures electronically by emailing your request(s) to SPD at: GSD.SPInfo@state.nm.us

G. To advise SPD of your new email address

To inform SPD of a change in the email address to which SPD sends you notices and disclosures electronically, you must send an email to SPD at GSD.SPInfo@state.nm.us and in the body of such request you must include your previous and new email addresses.

H. To request paper copies from SPD

To request delivery of paper copies of electronic notices and disclosures that DocuSign and/or SPD have previously provided to you, you must send an email to SPD at GSD.SPInfo@state.nm.us and in the body of your email request state your email address, full name, mailing address, and telephone number. SPD will charge you a \$1.00 per page copy fee plus postage.

I. To withdraw your consent with SPD

To inform SPD that you no longer wish to receive notices and disclosures in electronic format you may:

(1) Decline to sign a document from within a signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may:

(2) Send SPD an email to GSD.SPInfo@state.nm.us and in the body of your request state your email address, full name, mailing address, and telephone number.

J. Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current DocuSign system requirements may be found at:

<https://support.docusign.com/guides/signer-guide-signing-system-requirements>

K. Acknowledging your access and consent to receive and sign documents electronically

To confirm that you are able to electronically access the information contained in this Electronic Record and Signature Disclosure (ERSD), please confirm that you have: (1) read this ERSD, and either: (2) you are able to print on paper or electronically save this ERSD for your future reference and access; or (3) you are able to email this ERSD to an email address where you will be able to print this ERSD on paper and/or save this ERSD for your future reference and access. Further, if you consent to receiving notices and disclosures from DocuSign and/or SPD exclusively in electronic format, then select the check-box next to “I agree to use electronic records and signatures,” before you click “CONTINUE” within the DocuSign system.

By selecting the check-box next to “I agree to use electronic records and signatures,” you confirm that:

- You have read this Electronic Record and Signature Disclosure (ERSD); and
- You can print this ERSD on paper, or you can save and/ or send this ERSD to a location where you can print this ERSD, for your future reference and access; and
- Until or unless you notify SPD as stated in this ERSD, you consent to exclusively receive through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by SPD during the course of your electronic signature relationship with SPD.

Certificate Of Completion

Envelope Id: 4FA27773D27A41D2AF38ED65B51DEABD	Status: Completed
Subject: Please DocuSign: 10-34100-21-16147 OBPP RFP Contract	
Source Envelope:	
Document Pages: 30	Signatures: 1
Certificate Pages: 5	Initials: 2
AutoNav: Enabled	Envelope Originator:
Envelope Stamping: Enabled	Vanessa LeBlanc
Time Zone: (UTC-07:00) Mountain Time (US & Canada)	13 Bataan Blvd
	Santa Fe, NM 87508
	Vanessa.LeBlanc@state.nm.us
	IP Address: 76.127.41.204

Record Tracking

Status: Original	Holder: Vanessa LeBlanc	Location: DocuSign
2/21/2022 11:56:42 AM	Vanessa.LeBlanc@state.nm.us	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: GSD	Location: DocuSign

Signer Events

Signature	Timestamp
Travis Dutton- Leyda	Sent: 2/21/2022 12:05:00 PM
Travis.Dutton-Leyda@state.nm.us	Viewed: 2/21/2022 1:28:19 PM
IT & Construction Bureau Chief	Signed: 2/21/2022 1:34:27 PM
New Mexico General Services, State Purchasing Division	
Signature Adoption: Pre-selected Style	
Using IP Address: 73.127.219.222	
Security Level: Email, Account Authentication (None)	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Valerie Paulk	Sent: 2/21/2022 1:34:28 PM
valerie.paulk@state.nm.us	Viewed: 2/21/2022 2:12:20 PM
Signed of Behalf of State Purchasing Agent	Signed: 2/21/2022 2:14:57 PM
New Mexico General Services	
Signature Adoption: Pre-selected Style	
Using IP Address: 97.123.121.182	
Signing Group: 35000 - State Purchasing Agent	
Security Level: Email, Account Authentication (None)	
Signed using mobile	

Electronic Record and Signature Disclosure:
Accepted: 5/29/2020 9:40:59 AM
ID: f12ca6d0-7cba-4de4-b58f-8180244887ff

Vanessa LeBlanc	Sent: 2/21/2022 2:14:59 PM
vanessa.leblanc@state.nm.us	Viewed: 2/21/2022 2:15:36 PM
New Mexico General Services	Signed: 2/21/2022 2:18:01 PM
Signature Adoption: Pre-selected Style	
Using IP Address: 76.127.41.204	
Security Level: Email, Account Authentication (None)	

Electronic Record and Signature Disclosure:
Accepted: 6/2/2020 7:02:26 AM
ID: 174ce339-a45c-4eb9-8489-b3f5ced3d8e4

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	2/21/2022 12:05:00 PM
Certified Delivered	Security Checked	2/21/2022 2:15:36 PM
Signing Complete	Security Checked	2/21/2022 2:18:01 PM
Completed	Security Checked	2/21/2022 2:18:01 PM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

A. ELECTRONIC RECORD AND SIGNATURE DISCLOSURE (ERSD)

From time to time, New Mexico General Services Department (GSD), on behalf of the State of New Mexico (SONM), may be required by law to provide you with certain written notices or disclosures. Stated below are the terms and conditions for GSD's providing you such notices and disclosures electronically through the DocuSign system. Please read this information carefully. If you are able to access this information electronically and agree to **this Electronic Record and Signature Disclosure (ERSD)**, please confirm your agreement by selecting the check-box next to "I agree to use electronic records and signatures" before clicking "CONTINUE" within the DocuSign system.

B. Obtaining paper copies

At any time up to twenty (20) calendar days following your use of DocuSign to electronically sign a document, you may request a paper copy of any record provided or made available electronically to you by GSD. You will have the ability to download and print documents SONM sends you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a twenty (20) calendar day period after such documents are first sent to you. Following the twenty (20) day period, if you want GSD to send you paper copies of any such documents from GSD's office, you will be charged a \$1.00 per-page fee plus postage. You may request delivery of such paper copies from GSD by following the procedure stated in Section H, below.

C. Withdrawing your consent

If you decide to receive notices and disclosures from GSD electronically, you may at any time change your mind and inform GSD you want to receive required notices and disclosures only in paper format. The procedure concerning how you may inform GSD of your decision to receive future notices and disclosures in paper format as well as withdraw your consent to receive notices and disclosures electronically is stated in Section D, immediately below.

D. Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed with which GSD will be able to complete certain steps in specific transactions and deliver paper copies to you. GSD will need: (1) to send the required notices or disclosures to you in paper format; and (2) wait until GSD receives your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from SONM or to electronically sign documents generated and sent to you from SONM.

E. All notices and disclosures will be sent to you electronically

Unless you inform GSD otherwise according to these procedures, GSD will electronically provide you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements and other documents that are required to be provided or made available to you during the course of your electronic signature relationship with SONM. To reduce the possibility of inadvertent non-receipt, GSD prefers to provide all required notices and disclosures by the same method and to the same email or physical address that you furnish to GSD. Thus, you may receive the disclosures and notices electronically or in paper form. If you do not agree with this procedure, please inform GSD according to the procedures stated in Section I, below. Please also refer to Section D, immediately above, which states the consequences resulting from your declination of electronic delivery of notices and disclosures.

F. How to contact GSD:

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G. To advise SPD of your new email address

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H. To request paper copies from SPD

To request delivery of paper copies of electronic notices and disclosures that DocuSign and/or SPD have previously provided to you, you must send an email to SPD at GSD.SPInfo@state.nm.us and in the body of your email request state your email address, full name, mailing address, and telephone number. SPD will charge you a \$1.00 per page copy fee plus postage.

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- Until or unless you notify SPD as stated in this ERSD, you consent to exclusively receive through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by SPD during the course of your electronic signature relationship with SPD.