

**SERVICE AGREEMENT  
BETWEEN SANTA FE COUNTY AND  
MOBILE APPLICATION SERVICES  
SANTA FE COUNTY TRAILS APP**

**THIS AGREEMENT** is made and entered into this 4th day of September 2018, by and between **SANTA FE COUNTY**, hereinafter referred to as the "County" and **MINDSHARE LABS, INC.** whose principal address is 2209 Miguel Chavez Rd. Suite C, Santa Fe, New Mexico 87505, hereinafter referred to as the "Contractor".

**WHEREAS**, pursuant to NMSA 1978, Sections 13-1-112 through 13-1-117, competitive sealed proposals were solicited via a formal request for proposals, RFP No. 2018-0292-GM/MAM for the procurement of Mobile Application Services, Santa Fe County Trails Application (App) updates, enhancements, maintenance services and app development; and

**WHEREAS**, the County maintains a mobile trails application that is presently available for download and use from Google Play and Apple App Store stores. The Mobile Trails App is beneficial to Santa Fe County residents that enjoy outdoor recreational activities. The Trails App identifies the location of each trail the user selects on a map background. The map contains descriptions for each trail in Santa Fe County; and

**WHEREAS**, the County requires these services and the Contractor is qualified and willing to provide these services and both parties wish to enter into this Agreement.

**NOW, THEREFORE**, it is agreed between the parties:

1. **SCOPE OF WORK** Contractor shall update, maintain and develop new functionality for the County Mobile Trails App as well as provide for additional future mobile applications.

The tasks provide a general description of the scope of services and will be divided into three distinct phases as described below.

**A. Phase I Services - Update, enhance and maintain the SFC Mobile Trails App:**

1. Project Kickoff Meeting
2. Update and enhance the currently existing County Trails App.

**5 Hour per Month Maintenance Plan** - Provide ongoing maintenance, support and updates to keep functionality compatible with new versions of Android and iOS operating systems.

- a. Perform a one-time update of the County Trails Mobile App (software, code, application library, Plugin, et.al.) to most current code version. Perform the update using React Native code and other code utilized in the existing mobile app. Use Mapbox and/or GIS (or present an equivalent alternative for County approval) for mapping. Include coding updates to ensure users can see their location while using the

- mobile app and to ensure users can see their location while using the mobile app and to ensure the mobile app is configured to operate with data from the County's HTTPS environment (i.e. REST Services, etc.). Ensure coding updates allow users to access data off-line. Areas exist within Santa Fe County where cell coverage is limited, intermittent, or non-existent.
- b. For any and all new graphics proposed, provide the County with draft graphic designs for each mobile app page/element for review, acceptance, and approval by the County.
  - c. Add overview maps:
    - i. Add an overview map showing all trails with the County. The mobile app shall be structured to allow users to continue to select trails by name or to select trails from the All Trails Overview Map.
      - 1. The All Trails Overview Map shall allow the user to click on a trail system that take the user to that specific trail system's page. Show each trail system name on the All Trails Overview Map.
    - ii. Add an overview map for each trail system.
      - 1. Once the user selects a trails system, the mobile app shall take the user to the page for that trail system and have an overview map for the trail system. Each trail system overview map shall allow the user to click on a trail segment and take the user to that specific trail segment's map page.
    - iii. Have individual trail segments show connections to the rest of the trail system. Presently the mobile app does not show these connections.
  - d. Add trail markers and other trail features to each trail system. (Note: As County continues to inventory trail features, future updates to this GIS dataset are to be incorporated into the app).
  - e. Add elevation profiles. Elevation profiles show the elevation gain or drop along a trail, it provides the user with a way to gauge the effort a hike will take. It includes a slider that the user can move to understand elevation gain and loss along the trail.
    - i. Add elevation profiles to trails data that allows the user to select trails and see the elevation profile of a particular trail or of a particular hike the user wants to take.
 

The elevation profile should function similar to the elevation profile located SFC's web-based-application:  
<https://santafecountynm.maps.arcgis.com/app/MapSeries/index.html?appid=494e97891d524635936a5b9b759d7c63>.
    - ii. Elevation profiles shall be provided by trail segment.

2. Provide as needed minor mobile app enhancements such as data updates.
3. Develop mobile app graphics and functionality enhancements.
4. Redeploy to Google Play Store and Apple App Store as needed.
5. The app maintenance shall ensure the app remains fully functional
6. Download on a monthly basis usage statistics for the app from both the Google Play and Apple App and email these statistics to the County by the first of every month.

**C. Phase 2 - Develop, deploy and maintain a SFC Outdoor Adventure mobile app**  
 Within 10 days of the County's issuance of a notice to proceed with Phase 2 services, the Contractor shall proceed with the following services.

1. Design and develop functional specifications for an app based on components from the SFC Trails Mobile App which provides a means of making each app visually similar and part of the same visual family.
2. Prepare graphic design mockups and UI changes.
3. Develop content management Web interface functionality enhancements.
4. Provide deployment, updates and support and maintenance.
5. Design and develop a new Outdoor Adventure App. The Outdoor Adventure App should guide users to locations of their choice (such as hiking, mountain biking, horseback riding, skiing, cross country skiing, basketball, tennis, parks, etc.) The goal is to make it easy for users to find recreational locations and activities.
6. The final scope of services for Phase 2 tasks shall be provided at a future date and will be incorporated through a written amendment to this Agreement. The Outdoor Adventure App shall use React Native code (or present a County approved equivalent alternative) that allows one mobile app to be created for deployment to both iPhone and Android devices. Location information shall be displayed using Map box and/or GIS (or a County approved equivalent alternative).
7. The Outdoor Adventure App will be developed to incorporate the following characteristics.
  - a. Provide an opening screen to allow the user to choose a activity or "adventure" (hiking, mountain biking, horseback riding, downhill skiing, cross country skiing, snowboarding, snow shoeing, parks, dog parks, skate parks, tennis, basketball, golf, etc.). Icons and graphics developed will match the activity. Once the user selects an activity, the next screen should take the user to a main page for that activity, have names of features related to the activity, and have an associated overview map (see Overview Map requirements in Phase 1 above). Once the user makes a selection, a new screen will open that is related to that particular activity with an associated Overview Map for that activity. If it is a linear feature, it will have an associated elevation profile similar to the elevation profile for trails (see elevation profile requirements in Phase 1 above).
  - b. Provide overview maps for each linear features (such as hiking trails, mountain bike trails, horseback riding trails, cross country ski trails, etc.). Show connections for linear features similar to

- the connections for trail segments (see requirements in Phase 1 above).
  - c. Provide elevation profile of each linear feature that allows the user to trace a user-defined path and understand the elevation profile of their planned activity. Elevation profiles are not needed for point features (such as parks, tennis courts, basketball courts, etc.).
  - d. Show photographs and descriptions for features within each activity type.
  - e. Allow users to search by activity amenities (such as a search for *show me parks that have play structures*, etc.).
  - f. Allow users to save their favorites.
  - g. The app shall be developed to be responsive in both mobile and tablet environments.
  - h. The app shall allow users to access data off-line.
  - i. For any new graphics proposed by the Contractor, the Contractor will provide the County with draft graphic designs for each mobile app page/element for review and approval.
  - j. Develop icons, graphics, and back-end connections as data is updated and new adventure types are added.
8. The mobile app shall be developed to be easily updatable as new data becomes available and have the following characteristics.
- a. Build and maintain an interface for the County and/or the Contractor to provide data updates as needed and add new activity types as data becomes available.
  - b. The County and/or the Contractor may aggregate data over time and add activities as data becomes available. Other entities may participate in data aggregation. Data aggregated by the Contractor for the app developed pursuant to the Scope of Services under this Agreement shall be provided to the County in a format acceptable to the County and shall become the property of the County.
  - c. The County and/or the Contractor may provide wording and photographs for activities and features. Wording or photographs provided by the Contractor for the app developed pursuant to the Scope of Services under this Agreement shall be provided to the County in a format acceptable to the County and shall become property of the County.
9. Where data exists the County will provide data in GIS format as either shapefiles, or as feature classes in a GIS file geodatabase, or as REST services, or in KML. The Contractor should specify the data desired data and the format. The mobile app may be required to accommodate input data with different coordinate systems. The Contractor should address how different coordinate systems of the native data will be managed, and/or types of coordinate system transformations needed, to accomplish the mobile app development and update.
10. The app shall be developed to be responsive in both mobile and tablet environments.
11. The app shall allow users to access data off-line.

12. Configure app (map data, user interface, user interaction). App development works shall include all necessary wire framing, API integration, etc.
13. Troubleshoot, debug, test, perform quality assurance/quality control, and provide support. The Contractor shall perform testing to ensure the app works across iPhone and Android mobile and tablet devices. Test results will be provided to the County. The County will have a time period (no less than two weeks) in which to test the application as part of the quality assurance/quality control process. Should testing result in additional work necessary to complete the required update, the County shall have not less than two weeks to test the application again.
14. Redeploy the final updated mobile app to Google Play and the Apple App. Testing and redeployment shall continue until the app functions as required to the satisfaction of the County.
15. Provide on-going maintenance costs and corresponding maintenance plan that will include the following.
  - a. Maintain mobile apps on a monthly basis (break out the costs monthly and yearly with option to pay on a yearly basis).
  - b. Maintenance tasks shall include keeping mobile apps updated (software, code, application library, Plugin).
  - c. Provide troubleshooting, debugging, testing, quality assurance/quality control, and support related to monthly updates.
  - d. Include minor mobile apps enhancements such as data updates, minor mobile apps graphics and functionality enhancements.
  - e. Include redeployment to Google Play Store and Apple App Store.
  - f. The apps maintenance shall ensure the apps remain fully functional.
  - g. Download on a monthly basis usage statistics for the apps from both Google Play and the Apple App and email these statistics to the County by the first of every month.

**E. Phase 3 - Develop, deploy and maintain new County mobile applications for iPhone and Android devices.** The County plans to develop mobile applications intended primarily for economic development purposes (these could include mobile apps related to arts, culture, film, food, etc.). The final scope and deliverables for Phase 3 services tasks may be provided at a future date through a written amendment to this Agreement. Future mobile apps may be requested to take into account evolving mobile technology including but not limited to augmented reality, 3D, etc. New mobile applications may utilize the same back end interface as previously developed apps. This will allow for updates, maintenance and bug tracking.

1. New mobile applications shall be developed to include Use React Native code (or a County approved equivalent alternative) that shall allow one mobile app to be created for deployment to both iPhone and Android devices. Use Mapbox and/or GIS for displaying location information (or a County approved equivalent alternative). Employ functionality from prior mobile apps into new mobile applications where appropriate. Include deployment of mobile apps and updates to Google Play Store and the Apple App Store.
2. For any and all new graphics that are proposed by the Contractor, provide the County with draft graphic designs for each mobile app page/element for review and approval by the County.

3. Develop icons, graphics, and back-end connections as data is updated and new adventure types are added.
4. The mobile apps shall be developed to be easily updatable as new data becomes available and shall incorporate the following.
  - a. Build and maintain an interface for the County and/or the Contractor to provide data updates as needed as it becomes available (as determined by the County in the final scope for this Phase based on input from the Contractor).
  - b. The County and/or the Contractor may aggregate data over time and add new data as it becomes available. Other entities may participate in data aggregation. Data aggregated by the Contractor for the app developed pursuant to the Scope of Services under this Agreement shall be provided to the County in a format acceptable to the County and shall become the property of the County.
  - c. The County and/or the Contractor may provide wording and photographs for activities and features. Wording or photographs provided by the Contractor for the app developed pursuant to the Scope of Services under this Agreement shall be provided to the County in a format acceptable to the County and shall become property of the County.
5. Where data exists, the County will provide data in GIS format as either shapefiles, or as feature classes in a GIS file geodatabase, or as REST services, or in KML. The Contractor should specify the desired format. The mobile app may be required to accommodate input data with different coordinate systems. The Contractor should address how different coordinate systems of the native data will be managed, and/or types of coordinate system transformations needed, to accomplish the mobile app development and update.
6. The apps shall be developed to be responsive in both mobile and tablet environments.
7. The apps shall allow users to access data off-line.
8. Configure apps (map data, user interface, user interaction). App development works shall include all necessary wire framing, API integration, etc.
9. Troubleshoot, debug, test, perform quality assurance/quality control, and provide support. The Contractor shall perform testing to ensure the apps work across iPhone and Android mobile and tablet devices. Testing results will be provided to the County. The County will have a time period (no less than two weeks) in which to test the application as part of the quality assurance/quality control process. Should testing result in additional work necessary to complete the required update, the County shall have not less than two weeks to test the application again.
10. Redeploy the final updated mobile apps to Google Play and Apple App. Testing and redeployment shall continue until the apps function as required to the satisfaction of the County.
11. Provide on-going maintenance and a corresponding maintenance plan that incorporates the following.
  - a. Maintain mobile apps on a monthly basis (break out the costs monthly and yearly with option to pay on a yearly basis).
  - b. Maintenance tasks shall include keeping mobile apps updated (software, code, application library, Plugin).
  - c. Provide troubleshooting, debugging, testing, quality assurance/quality control, and support related to monthly updates.

- d. Include minor mobile apps enhancements such as data updates, minor mobile apps graphics and functionality enhancements.
- e. Include redeployment to Google Play Store and the Apple App Store.
- f. The apps maintenance shall ensure the apps remain fully functional.
- g. Download on a monthly basis usage statistics for the apps from both Google Play Store and the Apple App Store and email these statistics to the County by the first of every month.

## **2. DELIVERABLES**

**Phase 1.** The County presently has a Trails Mobile App for iPhone and Android devices. This Mobile App shows location of trails throughout the County, shows where the user is on the trail while hiking, shows trails on a map background, and provides trail names and descriptions. This current Trails Mobile App requires updates, enhancements, and ongoing maintenance. Phase 1 services should be completed no later than October 31, 2018.

**Phase 2.** The County plans to evolve its SFC Trails Mobile App into an Outdoor Adventure App, or create a new mobile app for this purpose. The County prefers to enhance and convert its Trails Mobile App into the Outdoor Adventure App, however, the County is willing to consider proposals for a new mobile application that presents a sound business and cost case for an entirely new Outdoor Adventure App. The Deliverables for Phase 2 services are estimated to be completed no later than May 31, 2019.

**Phase 3.** The County plans to develop future mobile applications intended primarily for economic development purposes (these could include mobile apps related to arts and culture, film, food, etc.). The Deliverables for Phase 3 services shall be determined at a future date through an amendment to this Agreement. Future mobile apps may be requested to take into account evolving mobile technology including but not limited to augmented reality, 3D, etc.

## **3. ADDITIONAL SERVICES**

A. The parties agree that all tasks set forth in Section 1 (Scope of Work) of this Agreement shall be completed in full, to the satisfaction of the County, in accordance with professional standards and for the amount set forth in Section 4 (Compensation, Invoicing and Set-Off), of this Agreement, and for no other cost, amount, fee or expense.

B. The County may from time to time request changes in the scope of work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

## **4. COMPENSATION, INVOICING AND SET-OFF**

- A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

1) The amount payable to the Contractor under this Agreement shall not exceed \$57,577.80, exclusive of NM grt. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.

Annual maintenance cost.	\$ 6,652.80
(5-hour month maintenance)	
Phase 1 costs	\$ 14,805.00
Application library & plugin updates	
Map data configuration/ API integrations	
UI/UX library additions	
Elevation interface UX design	
Elevation interface development	
Overview map use interaction/ UX design/mockups	
Trail system overview map development	
County trails overview map development	
Trail markers development	
Quality assurance/ testing	
Additional graphic design and app screenshots	
App store and Google Play deployment	
Project Management	
Phase 2 cost	\$ 36,120.00
Wireframing	
Content development/ acquisition/ formatting	
Base application development	
Content management backend	
API integration	
Adventure content sections development – CMS	
Adventure content sections development – App	
Content display and searching	
Additional user interactions	
Responsive/ mobile & table development	
Browser + device debugging/ deployment	
Total for maintenance, Phases 1 and 2	\$ 57,577.80 exclusive of NM grt

2) This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. The County will notify the Contractor when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended.

B. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County



shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought.

- 1) Subject to allowable testing as provided at Section 1.A.17 or Section 1.C.13 (testing), the Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual services or deliverables.
  - 2) Within 30 days of the issuance of a written certification accepting the services or deliverables, the County shall tender payment for the accepted items or services. In the event the County fails to tender payment within 30 days of the written certification accepting the items or services, the County shall pay late payment charges of 1.5% per month, until the amount due is paid in full.
- C. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.
- D. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

## **5. EFFECTIVE DATE AND TERM**

This Agreement shall become effective on the date of last signature by the parties hereto and shall terminate one year later, unless earlier terminated pursuant to Section 6 (Termination) or Section 7 (Appropriations and Authorizations). The County has the option to extend the term of this Agreement at the same price, terms and conditions for one year. In no event, shall the term of this Agreement exceed four years. Notice that the County wishes to extend the term will be submitted to Contractor at least 60 days prior to the expiration of the term.

## **6. TERMINATION**

A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective 30 days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within 30 days, the breaching party shall have a reasonable time to cure the breach, provided that, within 30 days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than 15 days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the

effective date of termination but shall not be liable for any work performed after the effective date of termination.

## **7. APPROPRIATIONS AND AUTHORIZATIONS**

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

## **8. INDEPENDENT CONTRACTOR**

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

## **9. 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 advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

## **10. SUBCONTRACTING**

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

## **11. PERSONNEL**

A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.

B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of

or have any contractual relationships with the County and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

## **12. RELEASE**

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

## **13. CONFIDENTIALITY**

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

## **14. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT**

- A. The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.
- B. The Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement is a work made for hire. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, the County shall own any such copyright.
- C. The Contractor will utilize only open source fonts in the completion of the Scope of Services under this Agreement. All images, graphics and photographs will be generated and supplied by the Contractor or the County. No licensed media content will be utilized in the completion of the Scope of Services of this Agreement.

## **15. CONFLICT OF INTEREST**

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

## **16. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED**

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1 (Scope of Work), of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

## **17. ENTIRE AGREEMENT; INTEGRATION**

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

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

## **18. NOTICE OF PENALTIES**

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

## **19. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.

B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

## **20. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.

B. Contractor shall comply with the requirements of Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).

C. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be state district courts of New Mexico, located in Santa Fe County.

## **21. RECORDS AND INSPECTIONS**

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).

B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process, the Contractor also

agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

## **22. INDEMNIFICATION**

A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.

C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

## **23. SEVERABILITY**

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

## **24. NOTICES**

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

To the County: Santa Fe County  
Attn: Christina Kelso, GIS Supervisor  
Office of Growth Management  
P.O. Box 276  
102 Grant Avenue  
Santa Fe, New Mexico 87504-0276

To the Contractor: Mindshare Labs, Inc.  
Attn: James Johnson  
2209 Miguel Chavez Road, Suite C  
Santa Fe, NM 87505

## **25. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

The Contractor hereby represents and warrants that:

A. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.

B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the New Mexico Secretary of State on Contractor's behalf.

C. Contractor is legally registered and is properly licensed by the New Mexico State to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

## **26. NO THIRD-PARTY BENEFICIARIES**

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

## **27. INSURANCE**

A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.

B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.

C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

D. Professional Liability Insurance. The Contractor shall procure and maintain during the life of this Agreement a Professional Liability Insurance.

E. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

## **28. PERMITS, FEES, AND LICENSES**

Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

**29. NEW MEXICO TORT CLAIMS ACT**

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

**30. CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

**31. SURVIVAL**

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

**32. FACSIMILE SIGNATURE**

The parties agree that a facsimile signature has the same force and effect as an original for all purposes.

**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date first written above.

**SANTA FE COUNTY:**

\_\_\_\_\_  
Katherine Miller  
Santa Fe County Manager


\_\_\_\_\_  
Date


Approved as to form:

  
\_\_\_\_\_  
R. Bruce Frederick  
Santa Fe County Attorney

8/29/18  
\_\_\_\_\_  
Date

Finance Department:

  
\_\_\_\_\_  
Stephanie S. Clarke  
Finance Director

  
\_\_\_\_\_  
Date

**CONTRACTOR:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_



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**SANTA FE COUNTY:**

  
\_\_\_\_\_  
Katherine Miller  
Santa Fe County Manager

9.4.18  
Date

Approved as to form:

  
\_\_\_\_\_  
R. Bruce Frederick  
Santa Fe County Attorney

3/29/18  
Date

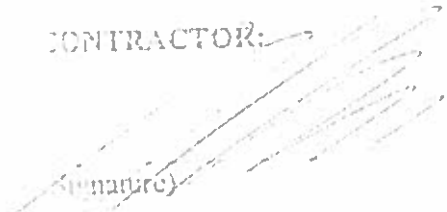
Finance Department:



Stephanie S. Clarke  
Finance Director

8/30/18  
Date

CONTRACTOR:



8/30/18  
Date

James W. Johnson  
(Print Name)