



Agenda

Water Authority

June 20, 2012



ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

AGENDA

Albuquerque/Bernalillo County Government Center

One Civic Plaza

Albuquerque, NM 87102

Vincent E. Griego Chambers

Councilor Ken Sanchez, Chair
Commissioner Wayne Johnson, Vice Chair
Mayor Richard J. Berry
Commissioner Art De La Cruz
Councilor Rey Garduno
Commissioner Maggie Hart Stebbins
Councilor Trudy E. Jones
Trustee Pablo Rael, Ex Officio Member

Wednesday, June 20, 2012

5:00 PM

Vincent E. Griego Chambers

1. **CALL TO ORDER**
2. **INVOCATION/PLEDGE OF ALLEGIANCE**
3. **APPROVAL OF MINUTES – May 23, 2012**
4. **PROCLAMATIONS AND AWARDS**
5. **PUBLIC COMMENT**
6. **ANNOUNCEMENTS/COMMUNICATION**
 - A. Next Scheduled Meeting – August 22, 2012 at 5:00 pm
7. **INTRODUCTION (FIRST READING) OF LEGISLATION**
 - A. **WUA R-12-13** Authorizing an Agreement with Kirtland Air Force Base for Water Protection
 - B. **WUA R-12-14** Protecting Albuquerque's Water Supply
8. **APPROVAL OF CONSENT AGENDA -** *Board Members may request that a Consent Agenda item be placed under Approvals*
9. **APPROVALS**
 - A. **WUA O-12-1** Amending the Water Authority Water and Sewer Rate

Ordinance

- B. WUA C-12-9** Approving Recommendation of Award – Water Resources Education – River Day Programs, Classroom Presentations and Public Events P2012000025
- C. WUA C-12-10** Approving Recommendation of Award – Media and Public Relations P2012000023
- D. WUA C-12-11** Approving Recommendation of Award – Legal Services P2012000030
- E. WUA C-12-12** Approving Agreement with INX, LLC a wholly-owned Subsidiary of Presidio Networked Solutions for Network and Hardware Support Services
- F. WUA C-12-13** Approving Agreement with TEKSystems, Inc. for Technology Services

10. OTHER BUSINESS

- A. New Mexico Environment Department Update on Jet Fuel Spill**
- B. Kirtland Air Force Base Update on Jet Fuel Spill**

11. ADJOURNMENT

* IF THE PROPER ACTION IS TAKEN BY THE WATER AUTHORITY, THESE ITEMS WILL BE PLACED ON TODAY'S AGENDA FOR FINAL ACTION

Visit our Website at www.abcwua.org

NOTICE TO PERSONS WITH DISABILITIES: If you have a disability and require special assistance to participate in this meeting, please contact the Water Authority Office, Suite 5012, Albuquerque/Bernalillo County Government Center, phone 768-2500 or by the TTY 1-800-659-8331, as soon as possible prior to the meeting date. Public documents, including the agendas and minutes, can be provided in various accessible formats. Please contact the Executive Director of the Water Authority at the Water Authority Office if a summary or other type of accessible format is needed.

Meeting Date: June 20, 2012

TITLE: R-12-13 – Authorizing an Agreement with the Kirtland Air Force Base for Contingency Plan Coordination

ACTION: Introduction

SUMMARY:

The Water Authority has been working cooperatively with Kirtland Air Force Base (KAFB) regarding the jet fuel plume characterization and remediation. The Water Authority Board has been very active in requesting updates from both KAFB and the New Mexico Environment Department as to the progress of the characterization and remediation of the jet fuel plume. The jet fuel plume is migrating towards two Ridgecrest wells and other municipal wells and represents a significant threat to the regional water supply and the Water Authority Board has requested that the staff work towards updating an existing Memorandum of Agreement between the Water Authority and KAFB to begin evaluation and development of a contingency plan in the event that the jet fuel plume reaches the existing water supply wells. This resolution is to fulfill the Water Authority's Board request to work cooperatively with KAFB in development of the contingency plan and for KAFB to fund the effort.

Commissioner Art De La Cruz requested this Resolution.

FISCAL IMPACT:

None

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

BILL NO. R-12-13

1 **RESOLUTION**

2 **AUTHORIZING AN AGREEMENT WITH THE KIRTLAND AIR FORCE BASE FOR**
3 **CONTINGENCY PLAN COORDINATION.**

4 WHEREAS, the Albuquerque Bernalillo County Water Utility Authority (Water
5 Authority) was established to provide safe and sustainable water supply for the
6 Albuquerque metropolitan area; and

7 WHEREAS, the Water Authority has worked diligently to conserve water usage
8 and invested more than \$500 million in the Drinking Water Project to preserve and
9 protect the aquifer and the regional water supply; and

10 WHEREAS, the Kirtland Air Force Base (KAFB) jet fuel plume represents a
11 significant threat and may be the largest plume of this type in the history of the United
12 States (U.S.); and

13 WHEREAS, the jet fuel plume has and continues to migrate from the source
14 towards existing municipal water supply wells; and

15 WHEREAS, KAFB and the Water Authority must cooperate to protect the water
16 supply in conjunction with the New Mexico Environment Department; and

17 WHEREAS, KAFB is investigating and actively remediating a fuel spill originating
18 from the base's former bulk fuel facility, which has entered the subsurface soil and
19 aquifer below both the base and City of Albuquerque; and

20 WHEREAS, the Water Authority has two drinking water production well fields
21 within a mile of the currently known extent of the fuel plume; and

22 WHEREAS, the Water Authority, KAFB and the New Mexico Environment
23 Department have been working cooperatively and productively towards ensuring that
24 the drinking water supply for the City of Albuquerque and Bernalillo County is safe for
25 consumption; and

26 WHEREAS, the U.S. Air Force has pledged to fund contingency projects, in the
27 event a Water Authority well or wells are impacted by the fuel plume.

1 WHEREAS, the Water Authority and KAFB have executed an existing
2 Memorandum of Agreement providing the Water Authority the provision to receive
3 reimbursements for costs related to additional well sampling related to the KAFB Bulk
4 Fuel Facility Spill.

5 BE IT RESOLVED BY THE WATER AUTHORITY:

6 Section 1. Water Authority will revise the Memorandum of Agreement with KAFB
7 to include activities related to monitoring, contingency planning and implementation in
8 the event that a Water Authority production well or wells are affected by the KAFB Bulk
9 Fuel Facility spill.

10 Section 2. Water Authority will work with KAFB on the placement of additional
11 monitoring wells to assist with the projection of the dissolved phase plume towards the
12 Water Utility's Ridgecrest Well Field;

13 Section 3. Water Authority will determine the cost of wellhead treatment, well
14 replacement and related infrastructure costs to be considered in the contingency and
15 implementation plan;

16 Section 4. The Executive Director is authorized to revise the existing agreement
17 with KAFB to provide funding by KAFB for costs related to contingency planning and
18 implementation projects.

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Meeting Date: June 20, 2012

TITLE: R-12-14 – Protecting Albuquerque’s Water Supply

ACTION: Introduction

SUMMARY:

The Resolution directs Water Authority staff to immediately enter into negotiations with KAFB for an agreement that will save Albuquerque’s drinking water resource. The agreement shall include requirements for KAFB to place groundwater monitoring equipment as close as possible to the Ridgecrest municipal wells. The agreement should include the requirement for KAFB to begin the investigation for technologies and installation of water treatment facilities for the wells including financial assurance and to halt the further movement of the liquid LNAPL jet fuel and to plan for and implement remediation technology to address the long-term contamination of soils and the aquifer.

Councilor Rey Garduno requested the Resolution.

FISCAL IMPACT:

None

**ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY**

BILL NO. R-12-14

RESOLUTION

PROTECTING ALBUQUERQUE’S DRINKING WATER .

WHEREAS, Albuquerque has the largest underground contamination threatening any city’s drinking water aquifer in the history of the U.S., now estimated at 24,000,000 gallons, more than twice the Exxon-Valdez spill; and

WHEREAS, the Kirtland Air Force Base, New Mexico Environment Department, and other experts do not deny that a dissolved plume of the toxic chemical contamination from Ethylene Dibromide (EDB) may arrive at the Albuquerque Bernalillo County Water Utility Authority’s five Ridgecrest well number 5 within five years; and

WHEREAS, The Agency for Toxic Substances and Disease Registry characterizes Ethylene Dibromide (EDB) breakdown in ground water as “hardly at all”; and

WHEREAS, a liquid plume of jet fuel (LNAPL) containing Benzene, Toluene, Ethylbenzene, Xylene and other toxic components is dissolving into groundwater and extends to a mile long and a half mile wide; and

WHEREAS, Soil Vapor Extraction technology cannot remove the LNAPL to keep it from moving further toward Albuquerque’s municipal drinking water wells; and

WHEREAS, although the Air Force recognized the spill in 1997, there is still only poor understanding of the size, depth and rate of the expansion of the plume of contamination; and

WHEREAS, there is no approved containment plan, no remediation plan, or ongoing effort to remove the liquid portion of the jet fuel (LNAPL) and the dissolved plume of EDB from Albuquerque’s drinking water aquifer; and

WHEREAS, the full size of the dissolved EDB plume is unknown and there are no monitoring wells close to the city wells; and

WHEREAS, The City of Albuquerque and Bernalillo County joint Water Utility Authority is the only governmental entity that can demand that the Air Force take action

1 to implement treatment technology to save the City's highly productive Ridgecrest and
2 other drinking water wells from the dissolved EDB plume:

3 BE IT RESOLVED BY THE WATER AUTHORITY:

4 Section 1. That in order to protect the public health and environment, the City
5 of Albuquerque and Bernalillo County through its Water Utility Authority act immediately
6 to enter into negotiations with the Air Force for emergency measures:

7 A. To save Albuquerque's drinking water resource;

8 B. To place groundwater monitoring as close as possible to the Ridgecrest
9 municipal wells;

10 C. To begin the investigation for technologies and installation of water treatment
11 facilities for the wells including financial assurance;

12 D. To halt the further movement of the liquid LNAPL jet fuel;

13 E. To plan for and implement remediation technology to address the long-term
14 contamination of soils and the aquifer.

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Meeting Date: June 20, 2012
Staff Contact: Stan Allred, Chief Financial Officer

TITLE: F/S O-12-1 - Amending the Albuquerque Bernalillo County Water Utility Authority Water and Sewer Rate Ordinance to Add a 5% Rate Adjustment for FY16 and FY18, Establish Irrigation Budget Surcharges Consistent with Other Accounts, Establish Consistency in the Procedures for Establishing Irrigation Budgets, Changing Definitions, Update Utility Expansion Charge and Water Supply Charge by the Engineering News Report Index, and Clerical Updates

ACTION: Recommend Approval

SUMMARY:

This Legislation amends the Water Authority's Water and Sewer Rate Ordinance. The Ordinance is amended to: 1) approve a 5% rate adjustment for FY16 and FY18; 2) make the irrigation budget surcharges consistent with other accounts; 3) make the procedures for establishing irrigation budgets consistent with existing policy; and 4) increase the Utility Expansion Charges and Water Supply Charge by the ENR index per sections 1-1-8(A)(1) and 1-1-8(D)(1) of the Ordinance.

The proposed amendment would approve a 5% rate adjustment for fiscal year 2016 and 2018. The rate adjustments would allow the Authority to begin incrementally increasing its capital spending at approximately \$3 million a year until the Authority can reach and sustain a spending level of approximately \$76 million annually as recommended by the Authority's Asset Management Plan. The rate adjustments would provide the resources to continue the upgrades at the Reclamation Plant and would also help Authority to achieve its goal of maintaining a Working Capital Balance equal to 1/12 of the annual budgeted expenditures.

The proposed amendment would make the Irrigation Budget Surcharges consistent with other accounts. For Fiscal Year 2012 the Board approved a third tier to the Authority's Extra Use Surcharge Structure and this legislation brings the Irrigation Budget Surcharges into the same approved levels. The amendments also establish consistency with existing procedures for establishing irrigation budgets.

The proposed amendment also adjusts the Utility Expansion Charges and Water Supply Charge by 2.7% based upon the May 1, 2011 ENR Building and Construction Cost Indexes. This is the annual adjustment made in accordance to sections 1-1-8(A)(1) and 1-1-8(D)(1) of the Water Authority's Rate Ordinance.

FISCAL IMPACT:

The rate adjustment would allow the Authority to begin incrementally increasing its CIP spending at approximately \$3 million a year until the Authority can reach and sustain a spending level of approximately \$76 million annually. It would also provide the resources to continue the investment of the \$200+ million in the Reclamation Plant. It would also provide additional resources to meet and maintain a reserve of 1/12 which is expected by the rating agencies.

The net increase in Utility Expansion Charges and the Water Supply Charge for the average residential connection will be \$73 for water, \$55 for sewer and \$38 for the Water Supply Charge.

The average customer impact would be a \$48 monthly bill in FY/14, a \$51 monthly bill in FY/16 and a \$54 monthly bill in FY/18.

The proposed amendments are consistent with the ten-year financial plan presented to the Board.

COMMENTS:

Several clerical and grammatical errors have been identified and corrected in the floor substitute.

1 pay their proportionate cost of the system and creates equity within classes of
2 customers and among classes of customers.+]]

3 CITY. The City of Albuquerque, New Mexico.

4 COUNTY. Bernalillo County, New Mexico.

5 CURRENT DEBT SERVICE REQUIREMENT. Payments into a current
6 debt ordinances authorizing the issuance of bonds to be paid from the net revenues of
7 the systems.

8 CUSTOMER. [~~Any person, association, corporation or other entity~~
9 ~~receiving Utility service in the Service Area.~~ -] [+Any person, association, corporation, or
10 entity receiving Utility service, related products or services in the metropolitan Service
11 Area.+]]

12 DROUGHT. Drought occurs when there is insufficient precipitation
13 combined with other environmental factors that cause an increase of overall water
14 usage.

15 DROUGHT MANAGEMENT STRATEGY. The Water Authority's Drought
16 Management Plan which contains four different drought severity levels, with each level
17 containing increasingly stringent measures to reduce demand on the Water Authority's
18 water system.

19 EXECUTIVE DIRECTOR. The Executive Director of the Water Authority.

20 EXPENSES. All expenses necessary for the operation and maintenance
21 of the water and sewer systems, excluding depreciation and payments in lieu of taxes
22 and expenditures for capital items.

23 FISCAL YEAR. July 1 through June 30.

24 FRANCHISE. The authorizations granted by the City of Albuquerque, City
25 of Rio Rancho, Bernalillo County or Village of Los Ranchos to the Water Authority to
26 use their respective rights-of-way and public places to construct, operate, and maintain
27 Water Authority water and wastewater systems.

28 LOW INCOME HOUSING DEVELOPMENTS. Any multi-family residential
29 development constructed by the City of Albuquerque or Bernalillo County or a non-
30 private developer in conjunction with one of these local governments which is
31 substantially intended to provide affordable housing to very low income citizens as
32 defined by 60 percent or less of median income as established by the US Department of
33 Housing and Urban Development and/or approved by the Executive Director.

1 METER SIZE. The physical size of a water meter as designated by
2 AWWA Standard.

3 PAJARITO MESA MUTUAL DOMESTIC WATER AND WASTEWATER
4 CONSUMERS ASSOCIATION (PMMDWWCA). Non-profit organization generally
5 located in the Pajarito land grant established in 2000 under the laws of New Mexico
6 Sanitary Projects Act.

7 REVENUES. For this purpose revenues will include all charges for
8 current water and sewer service, income from miscellaneous services or property,
9 interest on investments of the Joint Water and Sewer Funds, connection fees, and
10 interest on notes or other receivables.

11 RIO RANCHO The City of Rio Rancho, New Mexico.

12 SERVICE AREA. Those parts of Bernalillo County and contiguous
13 territory served by the Water Authority.

14 SERVICE SIZE. Service sizes range from size 1 to size 8. Each size
15 is based upon the meter size or equivalent for each account.

16 UEC. Utility Expansion Charge

17 UTILITY. The water and wastewater facilities and all operations and
18 management of such facilities necessary to provide water and wastewater service in the
19 Service Area.

20 VILLAGE OF LOS RANCHOS. Village of Los Ranchos de Albuquerque,
21 New Mexico.

22 WATER AUTHORITY. The Albuquerque Bernalillo County Water
23 Utility Authority or its authorized agent.

24 WATER SUPPLY CHARGE (WSC). A charge that will be assessed by
25 the Water Authority at the time of meter sale or application for service to any new water
26 user customer requesting connection to the water system in an area [~~requiring new or~~
27 ~~enhanced infrastructure through a service expansion~~ -][+ not located within the Water
28 Authority's service area and requiring a development agreement +].

29 WINTER MEAN. For all customers, the average monthly water use
30 billed in the months of December, January, February and March for each account. If a
31 customer has a new account and does not have a full four months to calculate a winter
32 mean or if a customer's winter mean is zero, then the mean for that customer will be
33 based off the class and size average mean. For those residential customers that have

1 a winter mean greater than zero units but less than four units and does not fall in the
2 category of a new account then their winter mean used for the Conservation Surcharge
3 will be four units. For those residential customers that have a winter mean greater than
4 15 units their winter mean used for the Conservation Surcharge will be 15 units.

5 (B) Computation of Revenues, Expenses and Debt Service. At the end of
6 each quarter of the fiscal year a determination will be made as to the total revenues,
7 expenses and current debt service requirements of the system in accordance with
8 definitions in §1-1-2(A). The determination will be made by the end of the first month
9 following the end of each quarter. The results of the determination will be transmitted to
10 the Water Authority.

11 (C) Increasing Minimum Monthly Fixed Charges. If the determination of §1-1-
12 2(B) above shows that the total revenues minus the expenses of the system are less
13 than 133 percent of the current debt service for the cumulative quarter of the fiscal year,
14 the fixed monthly charge will be increased for water and sewer accounts. The increase
15 in fixed monthly charges will be a percentage of the established fixed monthly charges
16 that produce additional revenues so that if the adjusted charges had been effective the
17 previous quarter, the total revenues would have been sufficient to pay operating
18 expenses and 133 percent of current debt service. The increased fixed monthly
19 charge will be effective the second month following the quarter (i.e., the month following
20 the determination), and will remain in effect until such time as the Water Authority acts
21 on water and sewer rates. If the determination of §1-1-2(B) above shows the total
22 revenues minus the expenses of the system are less than 133 percent of the current
23 debt service for the cumulative quarter of the fiscal year, it shall be determined if the
24 revenue loss is due to efforts of Water Authority Customers to conserve water by
25 reviewing usage patterns. If the usage study shows that the reduced revenues are due
26 to conservation efforts, the Executive Director shall analyze the Utility's operations for
27 the purpose of determining whether or not corresponding expense reductions can be
28 effected and shall present any such expense reduction proposals to the Water
29 Authority.

30 (D) Increasing Water Commodity Charges. If the quarterly analysis of power
31 cost related to water pumping shows that costs are increasing or decreasing, the
32 Executive Director is authorized to adjust the water commodity charge to reflect the

1 change. An adjustment in the commodity charge will only be made if the needed
2 commodity charge adjustment is \$0.01 or greater, and shall be in \$0.01 increments.

3 (E) General Procedural Provisions. The Executive Director may enact
4 regulations to carry out the purposes of this Ordinance.

5 1-1-3. WATER RATES.

6 (A) Definitions. As used in this Section, unless the context otherwise
7 requires:

8 CUSTOMER CLASSIFICATIONS Include:

9 (1) RESIDENTIAL. Single-family detached, condominiums served by
10 individual meters, townhouses served by individual meters, duplexes served by
11 individual meters, or mobile homes served by individual meters.

12 (2) MULTI-FAMILY. Any metered/account serving more than one
13 dwelling unit; i.e., duplexes, residences with guests houses, triplexes, four-plexes,
14 apartment complexes, condominiums, town-homes, or mobile homes served by
15 common meters.

16 (3) COMMERCIAL. Retail, offices, hotels, motels, shopping centers,
17 none of which use process water in the conduct of business.

18 (4) INDUSTRIAL. Manufacturing, or process facility which is engaged
19 in producing a product.

20 (5) INSTITUTIONAL. Government buildings, hospitals, schools, and
21 other facilities that provide public and quasi-public services.

22 (B) Water Credit Eligibility and Procedures.

23 (1) Single-family detached, condominiums, townhouses, duplexes or
24 triplexes served by common or individual meters; mobile homes served by individual
25 meters; but limited to those Customers who own the dwelling in which they reside and
26 qualify under the United States Department of Health and Human Services poverty
27 guidelines.

28 (2) The Executive Director shall establish procedures regarding
29 certification for water credits and shall periodically make administrative changes to the
30 income guidelines as circumstances require.

31 (C) Metered Water Service.

32 (1) The rates and compensation to be paid to the Water Authority for
33 public and private use of water supplied by the Water Authority for any and all purposes

1 shall be in accordance with the following schedule of charges. In addition to this Fixed
 2 Monthly Charge, there shall be a Strategy Implementation Fixed Monthly Charge, §1-1-
 3 3(B)(2), which shall be dedicated to the Sustainable Water Supply Program [~~in Fund~~
 4 ~~622-~~].

5 Fixed Monthly Charge - Metered Service

6	Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi- family
7							
8	1	5/8 X 3/4	\$8.22	\$8.39	\$ 17.65	\$8.85	\$10.56
9	2	1	15.72	16.04	34.91	17.00	20.49
10	3	1½	54.27	55.45	123.71	58.93	71.52
11	4	2	121.80	124.48	279.27	132.34	160.92
12	5	3	224.32	229.30	515.33	243.81	296.61
13	6	4	535.11	546.95	1231.28	581.70	708.07
14	7	6	821.07	839.30	1889.39	892.59	1086.46
15	8	8 & over	1854.33	1895.43	4269.49	2225.98	2454.32

16 Effective July 1, 2013

17 Fixed Monthly Charge - Metered Service

18	Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi- family
19							
20	1	5/8 X 3/4	\$8.63	\$8.81	\$ 18.53	\$9.29	\$11.09
21	2	1	16.51	16.84	36.66	17.85	21.51
22	3	1½	56.98	58.22	129.90	61.88	75.10
23	4	2	127.89	130.70	293.23	138.96	168.97
24	5	3	235.54	240.77	541.10	256.00	311.44
25	6	4	561.87	574.30	1292.84	610.79	743.47
26	7	6	892.12	881.27	1983.86	937.22	1140.79
27	8	8 & over	1947.05	1990.20	4482.96	2337.28	2577.04

28 [+Effective July 1, 2015 and July 1, 2017

29 A 5 percent increase is approved and a schedule of charges will be designed and
 30 implemented based upon the Water Authority's Cost of Service Rate Model.+]

31 (2) In addition to the Fixed Monthly Charge in §1-1-3(~~[B-]~~ [+C+]), the
 32 rates and compensation to be paid to the Water Authority for public and private use of
 33 water supplied by the Water Authority within the Service Area for any and all purposes

[+Bracketed/Underscored Material+] - New
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1 shall be in accordance with the following schedule of charges. This Strategy
 2 Implementation Fixed Monthly Charge shall be dedicated to the Sustainable Water
 3 Supply[- Program in Fund 622 -]to fund the implementation, operation and maintenance
 4 of the Water Resources Management Strategy, which will develop the Water Authority's
 5 surface water supplies. Any interest earned on these dedicated funds shall be used only
 6 for this purpose.

7 Fixed Monthly Charge - Metered Service Strategy Implementation

8	Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi- 9 family
10	1	$\frac{5}{8} \times \frac{3}{4}$	\$3.76	\$4.15	\$5.84	\$4.06	\$4.15
11	2	1	9.01	9.22	14.37	8.70	9.56
12	3	1½	14.91	16.45	23.27	16.12	16.45
13	4	2	26.47	29.20	41.32	28.62	29.20
14	5	3	59.50	65.68	92.93	64.34	65.68
15	6	4	105.75	116.73	165.14	114.36	116.73
16	7	6	237.89	262.61	371.57	257.26	262.61
17	8	8 & over	422.88	466.83	660.56	457.32	466.83

18 Effective July 1, 2013

19 Fixed Monthly Charge - Metered Service Strategy Implementation

20	Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi- 21 family
22	1	$\frac{5}{8} \times \frac{3}{4}$	\$3.95	\$4.36	\$6.13	\$4.26	\$4.36
23	2	1	9.46	9.68	15.09	9.14	10.04
24	3	1½	15.66	17.27	24.43	16.93	17.27
25	4	2	27.79	30.66	43.39	30.05	30.66
26	5	3	62.48	68.96	97.58	67.56	68.96
27	6	4	111.04	122.57	173.40	120.08	122.57
28	7	6	249.78	275.74	390.15	270.12	275.74
29	8	8 & over	444.02	490.17	693.59	480.19	490.17

30 [+Effective July 1, 2015 and July 1, 2017

31 A 5 percent increase is approved and a schedule of charges will be designed and
 32 implemented based upon the Water Authority's Cost of Service Rate Model.+]

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1 (3) The rates and compensation to be paid to the Water Authority for
2 public and private use of water supplied by the Water Authority for Wholesale Water
3 Users shall be in accordance with the following schedule of charges.

4 Fixed Monthly Charges- Pajarito Mutual Domestic

5 Meter Size

6 ¾ \$12.57

7 1 25.37

8 1½ 73.40

9 2 157.61

10 3 327.55

11 4 728.07

12 6 1228.95

13 8 2606.77

14 [- Fixed Monthly Charges — Carnuel Mutual Domestic

15 Meter Size —

16 2 ————— \$4,491.02 -]

17 [+Effective July 1, 2015 and July 1, 2017

18 A 5 percent increase is approved and a schedule of charges will be designed and
19 implemented based upon the Water Authority's Cost of Service Rate Model.+]

20 (D) Unmetered Water Service.

21 (1) For service connections to the utility for private fire protection.

22 Applicable to all service through which water is used solely for extinguishing accidental
23 fires.

24 Fixed Monthly Charge

25 Line Size Service Area

26 (inches)

27 2 \$4.40

28 3 6.60

29 4 8.80

30 6 16.50

31 8 25.30

32 10 35.20

33 12 51.70

1 [+Effective July 1, 2015 and July 1, 2017

2 A 5 percent increase is approved and a schedule of charges will be designed and
3 implemented based upon the Water Authority's Cost of Service Rate Model.+]

4 (2) Unmetered water service for any purpose other than standby fire
5 protection will be a violation of this Ordinance and subject to the penalties specified
6 herein; except by written agreement approved by the Executive Director.

7 (E) Private Use of Fire Hydrants for Non-Potable Use.

8 (1) Permits

9 (a) Connections to fire hydrants at any location are prohibited
10 except by the Water Authority, Fire Departments within the service area or by written
11 permit (fire hydrant meter permit) issued by the Water Authority. The Fire Departments
12 within the service area are given permission to use fire hydrants based upon written
13 agreements with the Executive Director which pertain to inspection and maintenance.
14 Each Fire Department is required to perform agreed upon maintenance on all fire
15 hydrants within their service are[+a+] as a condition of use.

16 (b) A qualified applicant (business owner or licensed contractor)
17 or designated agent wishing to obtain a fire hydrant meter permit must submit a
18 completed application form to the Water Authority. Completed and signed applications
19 may be mailed or hand delivered. If the applicant assigns a designated agent to obtain
20 the permit, a designated agent certification form must be signed and notarized by the
21 business owner or licensed contractor and submitted with the completed application.

22 (c) Fire hydrant meter permits may be issued for a period not to
23 exceed one year. Failure to comply with one or more of the terms and conditions shall
24 be cause for terminating the permit.

25 (d) Under a standard fire hydrant meter permit, the applicant
26 may request the use of any fire hydrant from the Water Authority's designated network
27 of green-top fire hydrants. Applicants desiring to use an out-of-network hydrant must
28 submit a written request with the fire hydrant meter application stating the reason(s) for
29 needing to use the out-of-network hydrant. Water Authority staff will review such
30 requests on a case by case basis and a decision shall be issued within three business
31 days of receiving the request.

32 (e) The Water Authority reserves the right to refuse to issue a
33 fire hydrant meter permit to any applicant or to require an applicant to pay all current

1 charges on the applicant's Water Authority account as a condition to the issuance of a
2 permit.

3 (2) System Connection and Water Use.

4 (a) Water taken from fire hydrants may be used only for non-
5 potable, non-recreational purposes within the Water Authority service area. The use of
6 non-potable water taken from fire hydrants for swimming pools is prohibited.

7 (b) The permit holder shall utilize a backflow prevention method
8 or device acceptable to the Water Authority at all times the fire hydrant meter is in use
9 to protect the Water Authority's water supply. Failure to use an acceptable backflow
10 prevention method or device shall be cause for confiscating the fire hydrant meter and
11 terminating the permit.

12 (c) The Executive Director can appoint employees to inspect fire
13 hydrant meters at anytime, but not less than once per annum. Permit holders shall
14 make provisions for such inspections.

15 (d) For permit holders that contract with the Water Authority, the
16 Executive Director is authorized to withhold all or a portion of the surety bond for
17 outstanding fire hydrant meter charges including but not limited to repair and
18 replacement of the hydrant meter and usage.

19 (3) Loss, Damage and Payment Surety Bond.

20 (a) A loss, damage and payment surety deposit of \$3,000.00 for
21 each fire hydrant meter is required at the time the permit is issued. If a fire hydrant
22 meter is lost or stolen, the \$3,000.00 deposit shall be forfeited and the permit holder
23 shall be assessed up to \$1,000.00 charge for water usage.

24 (b) All or a portion of the loss, damage and payment surety
25 deposit will be refunded depending upon the cost of repairing the fire hydrant meter and
26 the outstanding balance for meter charges when it is returned to the Water Authority.
27 The Water Authority shall cause the repair work and compute the time and materials
28 necessary to rehabilitate the fire hydrant meter.

29 (c) The Executive Director can waive the loss, damage and
30 payment surety deposit for special events or non-construction related short term
31 projects.

32 (4) Reporting. The permit holder shall be required to report and pay
33 for fire hydrant water usage on a monthly basis. Fire hydrant meter readings shall be

1 submitted, in writing between the first (1st) and tenth (10th) day of the month for water
2 usage during the previous calendar month, regardless of whether any water usage
3 occurred during that month. Failure to submit meter readings between the first (1st) and
4 the tenth (10th) of the month shall result in a \$20.00 late meter reading fee per
5 occurrence. Failure to report meter readings on or before the last day of the month the
6 readings are due shall be cause for confiscation of the meter and termination of the
7 permit.

8 (5) Fees and Charges.

9 (a) The nonrefundable connection fee is \$230 for each hydrant
10 issued for a fire hydrant meter permit.

11 (b) All fire hydrant meter permit holders shall pay a monthly
12 maintenance charge of \$70. This monthly maintenance charge shall not be prorated.

13 (c) All water withdrawn from a fire hydrant shall be charged at
14 the current commodity rate. Connections to fire hydrants in violation of this Ordinance
15 will be subject to the penalties specified herein and shall be considered an illegal
16 connection and be subject to hydrant meter confiscation.

17 (d) The permit holder shall be required to remit payment for all
18 water withdrawn from fire hydrants on a monthly basis. Failure to remit payment in full
19 within ten (10) days after final notice is issued shall result in a \$50.00 late payment fee
20 per occurrence, and shall be cause for confiscation of the fire hydrant meter and
21 termination of the permit.

22 (F) Water Commodity Charge.

23 (1) (a) In addition to the Fixed Monthly Charge, all water used by a
24 Customer within the Service Area for any purpose whatsoever shall be charged at the
25 rate of \$0.971 per unit (one unit equals 100 cubic feet). In addition, there shall be a
26 charge, added to this commodity charge, of the amount necessary to compensate the
27 Water Authority for the water conservation fee charged by the State [of New Mexico]
28 and for the Sustainable Water Supply [~~Program in Fund 622~~], §1-1-3([~~E~~][E])(2).
29 This is determined by the meter reading or by estimating the usage by statistical
30 methods. Customers shall pay bills monthly.

31 [Effective July 1, 2015 and July 1, 2017

32 A 5 percent increase is approved and will be implemented based upon the Water
33 Authority's Cost of Service Rate Model.]

1 (b) Included in the commodity charge is a \$0.116 charge per
2 unit that will be dedicated to the Water Resources Management Program in Fund 621 to
3 fund the Ground-Water Protection Policy and Action Plan, the Water Conservation
4 Program, Water Resources Management Planning and Arsenic Investigations. All
5 interest earned on these dedicated funds shall be used only for this purpose.

6 [+Effective July 1, 2015 and July 1, 2017

7 A 5 percent increase is approved and will be implemented based upon the Water
8 Authority's Cost of Service Rate Model.+]]

9 (c) In addition to the Fixed Monthly Charge for customers with a
10 wholesale water rate shall be charged at the rate in accordance with the following
11 schedule of charges.

12 Pajarito Mutual Domestic - \$1.12 per 100 CCF

13 [- Garnuel Mutual Domestic - \$1.10 per 100 CCF -]

14 [+Effective July 1, 2015 and July 1, 2017

15 A 5 percent increase is approved and will be implemented based upon the Water
16 Authority's Cost of Service Rate Model.+]]

17 (2) In addition to the fixed monthly charges and the Commodity
18 Charge, §1-1-3([-E-][+E+])(1)(a), all water used by a Customer within the Service Area
19 for any purpose whatsoever shall be charged at the rate of \$0.444 per unit (one unit
20 equals 100 cubic feet). This charge per unit will be dedicated to a Sustainable Water
21 Supply [- Program in Fund 622 -] to fund the Water Resources Management Strategy.
22 Any interest earned on these dedicated funds shall be used only for this purpose.

23 [+Effective July 1, 2015 and July 1, 2017

24 A 5 percent increase is approved and will be implemented based upon the Water
25 Authority's Cost of Service Rate Model.+]]

26 (3) Bills may be based on the estimated average annual water use in
27 units, annualized and divided by 12 months, plus the fixed monthly charge. Any special
28 charges, such as UEC, shall be included on the bill. The Executive Director may
29 administratively adjust bills periodically by crediting and debiting accounts as
30 appropriate if errors have been found and verified.

31 (4) (a) Surcharges for irrigation-only water accounts shall be
32 assessed [+annually in the year following the water usage +] based upon an annual
33 irrigation budget allowance established for such accounts[- , in accordance with the

1 ~~Water Authority's Water Waste Ordinance.~~ -] [+ and in accordance with the following:

2 (i) Water budgets will be established by the Water Authority
3 whenever a new irrigation account is established or an existing account is converted to
4 an irrigation account.

5 (ii) All usage will be calculated annually on a per site basis.
6 Any usage of individual wells at these sites shall be submitted in writing to the Water
7 Authority by the 15th of the month following the use.

8 (iii) All golf courses existing prior to October 1, 1995 will be
9 allowed up to 40 inches of water over the entire landscaped area per calendar year.

10 (iv) All new golf courses or existing golf course expansions
11 permitted after October 1, 1995 will be allowed up to 37 inches of water over the entire
12 landscaped area per calendar year.

13 (v) Athletic fields will be allowed up to 45 inches of water
14 over the entire landscaped area per calendar year.

15 (vi) All other landscaped areas will receive a water budget of
16 35 inches of water over the entire landscaped area per calendar year. +]

17 A surcharge will be applied to the usage above the annual irrigation budget allowance.
18 For excess usage up to 150 percent (first tier) of the annual irrigation budget, the
19 surcharge shall be 50 percent of the commodity rate shown in §1-1-3([-E-][+F+])(1)(a)
20 and §1-1-3([-E-][+F+])(2). For excess usage greater than 150 percent (second tier) of
21 the annual irrigation budget, the surcharge shall be 100 percent of the commodity rate
22 shown in in §1-1-3([-E-][+F+])(a) and in §1-1-3([-E-][+F+])(2). [+For excess usage
23 greater than 200 percent (third tier) of the annual irrigation budget, the surcharge shall
24 be 150 percent of the commodity rate shown in §1-1-3(F)(1)(a) and §1-1-3(F)(2).+]

25 (b) The surcharge amount added for each unit exceeding 200
26 percent of the Winter Mean water usage as calculated in §1-1-2(A), shall be equal to 50
27 percent of the commodity charges in in §1-1-3([-E-][+F+])(1)(a) and in §1-1-3([-E-
28][+F+])(2), and shall be added to the total charge determined in in §1-1-3([-E-
29][+F+])(4)(b) for usage during the following months of April through October. For those
30 residential customers that have a Winter Mean equal to or greater than 15 units, the
31 surcharge amount added for each unit exceeding 200 percent of the Winter Mean water
32 usage as calculated in §1-1-2(A), shall be equal to 100 percent of the commodity
33 charges in in §1-1-3([-E-][+F+])(1)(a) and in §1-1-3([-E-][+F+])(2), and shall be added to

1 the total charge determined in §1-1-3([-E-][+E+])(4)(b) for usage during the following
2 months of April through October.

3 (c) The surcharge amount added for each unit exceeding 300
4 percent of the Winter Mean water usage as calculated in §1-1-2(A), shall be equal to 50
5 percent of the commodity charges in §1-1-3([-E-][+E+])(1)(a) in §1-1-3([-E-][+E+])(E)(2),
6 and shall be added to the total charge determined in §1-1-3([-E-][+E+])(4)(b) for usage
7 during the following months of April through October. For those residential customers
8 that have a Winter Mean equal to or greater than 15 units, the surcharge amount added
9 for each unit exceeding 300 percent of the Winter Mean water usage as calculated in
10 §1-1-2(A), shall be equal to 100 percent of the commodity charges in in §1-1-3([-E-
11][+E+])(1)(a) and in §1-1-3([-E-][+E+])(2), and shall be added to the total charge
12 determined in in §1-1-3([-E-][+E+])(4)(b) for usage during the following months of April
13 through October.

14 (d) The surcharge amount added for each unit exceeding 400
15 percent of the Winter Mean water usage as calculated in §1-1-2(A) shall be equal to 50
16 percent of the commodity charges in §1-1-3([-E-][+E+])(1)(a) and §1-1-3([-E-][+E+])(2),
17 and shall be added to the total charge determined in in §1-1-3([-E-][+E+])(4)(b) for
18 usage during the following months of April through October. For those residential
19 customers that have a Winter Mean equal to or greater than 15 units, the surcharge
20 amount added for each unit exceeding 400 percent of the Winter Mean water usage as
21 calculated in §1-1-2(A), shall be equal to 100 percent of the Commodity Charges §1-1-
22 3([-E-][+E+])(a) and in §1-1-3([-E-][+E+])(2), and shall be added to the total charge
23 determined in in §1-1-3([-E-][+E+])(4)(b) for usage during the following months of April
24 through October.

25 (e) Drought Related Surcharges. Under the four levels of
26 Drought defined in the Drought Management Strategy, the Water Authority may, at its
27 sole discretion, increase surcharges described in §1-1-3 by a factor of two, three or
28 more as may be necessary to assist in water use reduction during a drought. During a
29 drought, the Water Authority shall declare to the public the Drought Level, which can be
30 raised and lowered by the Water Authority, and the proposed increase in surcharges.
31 The Drought level only applies to the current year and must be approved by the Water
32 Authority on a year by year basis. The Water Authority delegates the implementation of
33 the Drought Management Strategy including the increase of surcharges to the

1 Executive Director. Based on the Drought Level approved by the Water Authority, the
2 Executive Director shall implement the Drought Management Strategy and announce
3 the effective date of the new surcharges. [- Surcharges, however, shall revert to the
4 surcharges described in §1-1-3 after November 1 of that same year. -]

5 (f) For residential class Customers only having service sizes 1
6 through 3, a 30 percent discount shall be applied to the commodity charges in §1-1-3([-
7 E-][+E+])(1)(a) in §1-1-3([-E-][+E+])(2) for water usage during the months of April
8 through October which is 150 percent or less than the Class Winter Mean water usage.

9 (G) Multiple Meter Service. Customers with service by more than one meter
10 to any premise shall be charged the applicable fees associated with each meter except
11 for single-family residential Customers who have two meters, of which one is used for
12 irrigation. The monthly fixed charge for these single-family residential Customers will be
13 based on the largest meter at the single-family residence.

14 (H) Water Credit. For those accounts included within the Water Credit
15 classification, a credit of \$10.31 per month will be applied to their billing; the billing shall
16 be calculated using the Fixed Monthly Charge and Commodity Charge as set forth in
17 this Ordinance.

18 (I) Tag and Testing Charge. When a Customer disputes meter accuracy, a
19 "Tag & Test" service will be done after all the steps taken by the Water Authority have
20 been exhausted and if requested in writing by the legal property owner or his/her
21 authorized representative.

22 (1) Meters 5/8 X 3/4" to 2"

Meter Size	Tag and Testing Charge Service
5/8" x 3/4"	\$140
1"	185
1-1/2"	380
2"	455

28 The meter in question will be removed and a new one installed so that service
29 can be maintained. The removed meter will be bench tested by the Water Authority in
30 accordance with AWWA Standard C705. Should the meter fail the accuracy test such
31 that the requestor was being overcharged, there would be no charge to the requestor.

32 (2) Meter 3" and greater. The meter in question will be tested in place
33 in accordance with AWWA Standard C701, C702 or C703 and AWWA manual M6.

1 Should the meter fail the accuracy test such that the requestor was being over charged,
2 there would be no charge to the requestor. The testing charge for this will be \$500 for
3 all sizes.

4 (J) The Customer utility statements shall contain the following itemized
5 element: "Sustainable Water Supply: \$`x,' where `x' shall be the cost of the rate
6 increase to fund the implementation of the Water Resources Management Strategy.

7 (K) Customer utility statements shall contain the following itemized element:
8 "Facility Rehabilitation: \$`x,' where `x' shall be the cost of the rate increase to fund
9 facility rehabilitation."

10 (L) Real property owners receiving water service from the Water Authority are
11 responsible for hiring a licensed plumber to connect their customer service line to the
12 Water Authority system at the point of metered service, or obtain a Homeowner Permit
13 from the permitting Agency, allowing the property owner to make the connection.

14 1-1-4. NON-POTABLE WATER RATES.

15 (A) Definitions. Refer to §1-1-3 Water Rates for the definitions of Customer
16 Classifications, which apply to this Section.

17 (B) Metered Service. The rates and compensation to be paid to the Water
18 Authority for public and private use of non-potable water supplied by the Water Authority
19 within the Service Area for any and all purposes shall be in accordance with the
20 schedule of charges listed in §1-1-3(B) for potable water metered service.

21 (C) Commodity Charge.

22 (1) In addition to the Fixed Monthly Charge, all non-potable water used
23 by a Customer within the Service Area shall be charged at the rate corresponding to 80
24 percent of the potable water commodity rate (one unit equals 100 cubic feet). This is
25 determined by the meter reading or by estimating the usage by statistical methods.
26 Customers shall pay bills monthly.

27 (2) Bills may be based on the estimated average annual non-potable
28 water use by units, annualized and divided by 12 months, plus the fixed monthly charge.
29 Any special charges, such as UEC, shall be included on the bill. The Executive Director
30 may administratively adjust bills periodically by crediting and debiting accounts as
31 appropriate if errors have been found and verified.

32 (3) [+All surcharges for irrigation-only water accounts +] [- For all
33 Customers subject to the water budget provisions of the City of Albuquerque Water

1 ~~Conservation Landscaping and Water Waste Ordinance, § 6-1-1-1 et seq., ROA 1994~~
2 ~~or successor Ordinance the excess use surcharge rate as defined per §1-1-3(E)(4)(b) -]~~
3 shall be charged at the rate based upon the non-potable water commodity rate (one unit
4 equals 100 cubic feet).

5 (D) Multiple Meter Service. Customers with non-potable water service by
6 more than one meter to any premise shall be charged the applicable fees associated
7 with each meter.

8 (E) Tag and Testing Charge. Refer to §1-1-3 ([~~H~~][+I+]) for applicable
9 provisions and charges.

10 (F) Utility Expansion Charge (UEC).

11 (1) A utility expansion charge shall be paid to the Water Authority at
12 the time of non-potable meter sale or application for non-potable water service for all
13 new services connecting to the non-potable water system. The UEC may be paid in full
14 at the time of non-potable service application, or paid over time with an initial minimum
15 of 5 percent down payment. The balance shall be subject to a fixed monthly charge to
16 include a carrying charge set at 7 percent per annum. On all connections, the balance
17 shall be paid in full within 120 months.

18 (2) The UEC for non-potable water service shall be the same as the
19 UEC for potable water service. Refer to §1-1-8 (A) for applicable provisions and
20 charges.

21 (3) Existing water Customers wishing to receive non-potable water
22 shall not be charged a UEC unless the new combined potable and non-potable system
23 capacity exceeds the Customer's previous existing potable system capacity.

24 (4) Redundant potable water and non-potable water metered services
25 are not required for non-potable service.

26 (G) Non-potable Water Meter and Service Installation Fees. Refer to §1-1-9
27 for applicable provisions and charges.

28 (H) Customers that are currently using potable water for irrigation or other
29 qualified industrial purposes as determined by the [Water] Authority and whose
30 property is located within 200-feet of a non-potable water line are required to connect to
31 the non-potable system within one year of service availability. Connection to non-
32 potable system is a condition of service. The Water Authority is required to provide
33 written notification to the property owner that non-potable water is available and that

1 connection to the system is mandatory. If requested, the Water Authority will meet with
2 the affected property owners and provide additional information regarding service
3 availability, connection locations and other information that may be deemed necessary.
4 The property owner has one year from the date of notification. Failure to connect may
5 result in termination of service.

6 (l) Water Rights Leases. Beginning July 1, 2006, except for lease
7 agreements that provide for periodic rate increases, water rights leases entered into by
8 the Water Authority for the purpose of offsetting depletive effects on the Rio Grande
9 from pumping by others shall be charged at the non-potable water rate.

10 1-1-5. SEWER RATES.

11 (A) Definitions. For the purpose of this Section, the following definitions shall
12 apply unless the context clearly indicates or requires a different meaning.

13 BOD or BIOCHEMICAL OXYGEN DEMAND. The quantity of oxygen
14 utilized in the biochemical oxidation of organic matter by Standard Methods procedures
15 in five days at 20° C. expressed in milligrams per liter (mg/l).

16 CLEANOUT. A tee section in the sanitary sewer located outside any
17 structure accessible 24 hours a day and constructed according to the Utility's standard
18 detail.

19 COD or CHEMICAL OXYGEN DEMAND. A measure of the oxygen-
20 consuming capacity of organic and inorganic matter present in wastewater as milligrams
21 per liter (mg/l), by Standard Methods procedures.

22 NH₃N OR AMMONIA NITROGEN. Total Ammonia – A measure of
23 the total ammonia as nitrogen concentration as milligrams per liter (mg/L) by Standard
24 Methods or EPA approved procedures.

25 CUSTOMER CLASSIFICATIONS.

26 (1) RESIDENTIAL. Single-family detached, condominiums served by
27 individual meters, townhouses served by individual meters, duplexes served by
28 individual meters, or mobile homes served by individual meters.

29 (2) MULTI-FAMILY. Any metered/account serving more than one
30 dwelling unit; i.e., duplexes, residences with guests houses, triplexes, four-plexes,
31 apartment complexes, condominiums, town-homes, or mobile homes served by
32 common meters.

1 (3) COMMERCIAL. Retail, offices, hotels, motels, shopping centers,
2 none of which use process water in the conduct of business.

3 (4) INDUSTRIAL. Manufacturing, or process facility which is engaged
4 in producing a product.

5 (5) INSTITUTIONAL. Government buildings, hospitals, schools, and
6 other facilities that provide public and quasi-public services.

7 (6) WHOLESALE-SPECIAL CONTRACTS. Contract Customers that
8 are responsible for a collection system beyond the point where their respective
9 wastewater discharges into the Water Authority's interceptors.

10 (7) KIRTLAND AIR FORCE BASE (KAFB).

11 INDUSTRIAL LIQUID WASTES. All waterborne solids, liquids or gaseous
12 wastes resulting from any industrial, manufacturing of food processing operation or
13 process, or from the development of any natural resources, or any mixture of these with
14 water or domestic sewage as distinct from normal domestic sewage.

15 LATERAL SEWER. An individual user's sewer pipe beginning at the
16 public sewer and extending to the premises actually served. The lateral sewer includes
17 the stub to which a user connects to the public sewer and all appurtenances on such
18 lateral sewer. The user is responsible for the maintenance of the lateral sewer including
19 those portions that may be within any right-of-way. The term is interchangeable with
20 "house service connection," "sewer service line," or "building sewer."

21 NORMAL DOMESTIC WASTEWATER. Effluent which contains
22 constituents and characteristics similar to effluent from a residence and specifically for
23 the purposes of this Ordinance does not contain BOD, COD, NH3N and TSS in excess
24 of the following concentration:

25 BOD -- 250 mg/l

26 COD -- 500 mg/l

27 TSS -- 330 mg/l

28 NH3N -- 25 mg/l

29 PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works
30 as defined by § 212 of the Clean Water Act, (33 USC 1292) which is owned by the
31 Water Authority. The term also includes Water Authority works, as defined in § 502 of
32 the Clean Water Act, (33 USC 1362) which has jurisdiction over the indirect discharges
33 to and the discharges from such a treatment works. The "treatment works" includes all

1 plants, sanitary sewers, lift stations, odor control stations, and all other properties, now
2 or hereafter existing, used or useful in connection with the collection, pumping, disposal
3 and treatment of wastewater, as now or hereafter added to, expanded or improved.

4 SEWER CREDIT ELIGIBILITY AND PROCEDURES. Single-family
5 detached, condominiums, townhouses, duplexes or triplexes served by common or
6 individual meters; mobile homes served by individual meters; but limited to those
7 Customers who own the dwelling in which they reside and qualify under the United
8 States Department of Health and Human Service poverty guidelines.

9 STANDARD METHODS. The laboratory procedures set forth in the latest
10 edition, at the time of analysis, of Standard Methods for Examination of Water and
11 Wastewater, as prepared, approved and published jointly by the American Public Health
12 Association and American Water Works Association and the Water Pollution Control
13 Federation.

14 TOTAL SUSPENDED SOLIDS or TSS. Those solids which are retained
15 by a standard glass fiber filter and dried to constant weight at 103 – 105° C. expressed
16 in milligrams per liter (mg/l), by Standard Methods procedures.

17 WASTEWATER. The used water of a community. Such used water may
18 be a combination of the liquid waterborne wastes from residences, commercial
19 buildings, industrial plants and institutions.

20 (B) Methodology and Calculation of Rates and Charges

21 (1) The rates and charges described in this Ordinance are developed
22 in conformance with standard cost-of-service rate making principles as recommended
23 by the American Water Works Association, the Water Environment Federation, and the
24 United States Environmental Protection Agency (USEPA).

25 (2) The Water Authority's rates and charges are calculated based on
26 each customer classification's use of the system. Historical billed flows by classification
27 and a systematic allocation of operation, maintenance, and capital costs were used to
28 calculate the schedule of charges contained in this Ordinance.

29 (C) Fixed Monthly Charge

30 (1) The rates and compensation to be paid to the Water Authority for
31 public or private use by discharge of liquid waste into the Water Authority within the
32 Service Area for any and all purposes whatsoever shall be in accordance with the
33 following schedules of charges. The Fixed Monthly Charge for Customers with Water

1 Authority water service shall be based on the water service size. The Fixed Monthly
 2 Charge for Customers without Water Authority water service shall be based on the
 3 liquid waste flow. Liquid waste flow will be calculated in accordance with the
 4 methodology set forth in the Commodity Charge Section of §1-1-5(D).

5 (2) Fixed Monthly Charge for Customers with water service:

6	Serv Size	Meter	Resid	Comm	Indust	Instit	Multi-
7							fam
8	1	5/8 X 3/4	\$7.86	\$9.72	\$44.19	\$7.53	\$13.05
9	2	1	12.75	15.92	74.87	12.16	21.61
10	3	1 1/2	52.12	65.96	322.46	49.59	90.69
11	4	2	129.70	164.54	810.19	123.33	226.77
12	5	3	173.69	220.44	1086.80	165.15	303.95
13	6	4	370.03	469.92	2321.20	351.78	648.38
14	7	6	492.79	622.76	3093.02	468.47	863.72
15	8	8 & over	876.03	1112.86	5502.49	832.76	1536.01

16 Effective July 1, 2013

17 (2) Fixed Monthly Charge for Customers with water service:

18	Serv Size	Meter	Resid	Comm	Indust	Instit	Multi-
19							fam
20	1	5/8 X 3/4	\$8.25	\$10.21	\$46.40	\$7.91	\$13.70
21	2	1	13.36	16.2	78.61	12.77	22.69
22	3	1 1/2	54.73	69.26	338.58	52.07	95.51
23	4	2	136.19	172.77	850.70	129.50	238.11
24	5	3	182.37	231.46	1141.14	173.41	319.15
25	6	4	388.53	493.42	2437.26	369.37	680.80
26	7	6	517.43	653.90	3247.67	491.89	906.91
27	8	8 & over	919.83	1168.50	5777.61	874.40	1612.81

28 [+Effective July 1, 2015 and July 1, 2017

29 A 5 percent increase is approved and a schedule of charges will be designed and
 30 implemented based upon the Water Authority's Cost of Service Rate Model.+]

31 (3) Fixed Monthly Charge for Customers without water service:

32 Liquid Waste

33 Flow (CCF) Residential Commercial Industrial Institutional Multi-family

[+Bracketed/Underscored Material+] - New
 [-Bracketed/Strikethrough Material-] - Deletion

1	0-10	\$7.86	\$9.72	\$44.19	\$7.53	\$13.05
2	11-19	12.75	15.92	74.87	12.16	21.61
3	20-63	52.12	65.96	322.46	49.59	90.69
4	64-82	129.70	164.54	810.19	123.33	226.77
5	83-343	173.69	220.44	1086.80	165.15	303.95
6	344-599	370.03	469.92	2321.20	351.78	648.38
7	600-803	492.79	622.76	3093.02	468.47	863.72
8	804-over	876.03	1112.86	5502.49	832.76	1536.01

9 Effective July 1, 2013

10 (3) Fixed Monthly Charge for Customers without water service:

11 Liquid Waste

12	Flow (CCF)	Residential	Commercial	Industrial	Institutional	Multi-family
13	0-10	\$8.25	\$10.21	\$46.40	\$7.91	\$13.70
14	11-19	13.36	16.20	78.61	12.77	22.69
15	20-63	54.73	69.26	338.58	52.07	95.51
16	64-82	136.19	172.77	850.70	129.50	238.11
17	83-343	182.37	231.46	1141.14	173.41	319.15
18	344-599	388.53	493.42	2437.26	369.37	680.80
19	600-803	517.43	653.90	3247.67	491.89	906.91
20	804-over	919.83	1168.50	5777.61	874.40	1612.81

21 [+Effective July 1, 2015 and July 1, 2017

22 A 5 percent increase is approved and a schedule of charges will be designed and
 23 implemented based upon the Water Authority's Cost of Service Rate Model.+]

24 (4) Fixed Monthly Charges for Wholesale and KAFB

25	Serv Size	Wholesale	Item	KAFB
26	1	\$9.93	Per Month	\$31,631.20
27	2	16.28		
28	3	35.99		
29	4	168.40		
30	5	225.62		
31	6	480.99		
32	7	640.67		
33	8	1084.90		

[+Bracketed/Underscored Material+] - New
 [-Bracketed/Strikethrough Material-] - Deletion

1 Effective July 1, 2013
 2 (4) Fixed Monthly Charges for Wholesale and KAFB

3 Serv Size	Wholesale	Item	KAFB
4 1	\$10.43	Per Month	\$33,212.76
5 2	17.09		
6 3	37.79		
7 4	176.82		
8 5	236.90		
9 6	505.04		
10 7	672.70		
11 8	1139.15		

12 [+Effective July 1, 2015 and July 1, 2017

13 A 5 percent increase is approved and a schedule of charges will be designed and
 14 implemented based upon the Water Authority's Cost of Service Rate Model.+]

15 (D) Commodity Charge. All wastewater discharge shall be charged on the
 16 basis of the Commodity Charges for Retail and Special Customers rate table on a per
 17 unit basis (one unit equals 100 cubic feet).

18 Commodity Charges for Retail and Special Contract Customers

19 Customer Class	Base (\$/CCF)	Rehab (\$/CCF)	Total Commodity (\$/CCF)
20 Retail Customers			
21 Residential	\$0.892	\$0.321	\$1.213
22 Commercial	0.892	0.321	1.213
23 Industrial	0.892	0.321	1.213
24 Institutional	0.892	0.321	1.213
25 Multi-family	0.892	0.321	1.213
26 Special Contracts			
27 Wholesale	\$0.892	\$0.00	\$0.892
28 KAFB	0.892	0.000	0.892

29 [+Effective July 1, 2015 and July 1, 2017

30 A 5 percent increase is approved and a schedule of charges will be designed and
 31 implemented based upon the Authority's Cost of Service Rate Model.+]

32 (1) Customers with Water Service. The commodity charge for usage
 33 during the months of December, January, February and March (winter months) shall be

1 based upon 95 percent of the metered or estimated volume of water usage during each
2 of these months for each account. The commodity charge for usage during other
3 months shall be based upon 95 percent of the metered or estimated volume of water
4 usage during that month or shall be based upon 95 percent of the prior winter months'
5 average, whichever is less for each account. The winter months' average is determined
6 by averaging the metered or estimated volume of water used during the winter months.

7 (2) Customers without Water Service. The volume of wastewater
8 discharge shall be determined by the physical measurement at the expense of the
9 customer; however, where accurate and reasonable estimates can be made by
10 statistical methods, such estimates shall be considered the volume of discharge upon
11 which the Commodity Charge is based. The Water Authority expressly reserves the
12 right to determine the estimated wastewater volume for any customer without water
13 service, which determination may be appealed to the Executive Director.

14 (3) Special Wastewater Discharge Volume. The Water Authority
15 recognizes that sewage discharge patterns for individual Customers may vary to a great
16 extent from the norms of any particular class; therefore, any Customer may, at their own
17 expense, provide the Water Authority with sewage flow data for consideration of a
18 special wastewater discharge volume. Such data shall be certified by an engineer
19 registered in the state. The Water Authority expressly reserves the right to determine
20 the estimated wastewater volume for any Customer, which determination may be
21 appealed to the Executive Director.

22 (E) Extra-Strength Surcharge.

23 (1) All Customers discharging wastewater into the POTW are subject
24 to a surcharge if the discharged wastewater exceeds normal domestic wastewater
25 strength. NORMAL STRENGTH is defined as:

26 (a) Chemical Oxygen Demand (COD) less than or equal to 500
27 mg/l; and

28 (b) Biochemical Oxygen Demand (BOD) less than or equal to
29 250 mg/l; and

30 (c) Total Suspended Solids (TSS) less than or equal to 330
31 mg/l; and

32 (d) Ammonia Nitrogen (NH₃N) less than or equal to 25 mg/l.

1 (2) The Water Authority shall determine strength as defined by the
2 above parameters in §1-1-5(E)(1) above. The procedures are described (I) below. If it
3 is determined that the wastewater strength exceeds the limits specified, a surcharge
4 shall be levied at the rate of:

- 5 (a) \$.11 per pound of COD for the excess of 500 mg/l of COD;
6 and
7 (b) \$.23 per pound of BOD for the excess of 250 mg/l BOD; and
8 (c) \$.19 per pound of TSS for the excess of 330 milligrams per
9 liter of TSS; and
10 (d) \$.47 per pound of NH₃N for the excess of 25 mg/l of NH₃N.

11 (3) The Water Authority shall promulgate regulations to carry out the
12 provisions of the extra-strength surcharge.

13 (F) Septic Tank Truck Discharge. No user owning vacuum or "cesspool" type
14 pumping trucks or other liquid waste transport trucks shall discharge such waste into the
15 POTW, unless such person shall first have applied for and received a Septic Tank
16 Discharge or Chemical Toilet Discharge Permit from the Executive Director pursuant to
17 the regulations "Establishing Administrative Policies and Fees for the Discharge of
18 Septic Tank and Chemical Toilet Wastes" currently adopted by the Water Authority.

19 (G) Sewer Use Regulations. The Water Authority's Sewer Use and
20 Wastewater Control or successor Ordinance, shall govern all discharges of wastewater
21 to the POTW.

22 (H) Sampling; Metering Manhole Requirements. When required by the Utility,
23 the owner of property serviced by a lateral sewer carrying industrial liquid wastes shall
24 install a suitable control manhole or cleanout together with such necessary meter and
25 other appurtenances in the lateral sewer to facilitate observation, sampling, and
26 measurement of the wastes. Such monitoring locations shall be accessible, safely
27 located, and constructed in such a manner as to prevent infiltration of ground and
28 surface waters. They shall be constructed in accordance with plans approved by the
29 Utility. The Utility has established standard details. The monitoring location and all
30 equipment shall be installed by the owner at his expense, and shall be maintained by
31 him so as to be safe and accessible at all times.

32 (I) Sampling and Testing Procedures.

1 (1) All dischargers subject to monitoring according to the Water
2 Authority's Sewer Use and Wastewater Control Ordinance, will be monitored by the
3 Water Authority. The discharge will be sampled and tested for compliance with the
4 Water Authority's Sewer Use and Wastewater Control Ordinance, and to determine the
5 surcharge amount.

6 (2) All measurements, tests and analysis of the characteristics of
7 waters and wastes shall be determined in accordance with the latest edition of Standard
8 Methods for the Examination of Water and Wastewater, published jointly by the
9 American Public Health Association and Water Pollution Control Federation, and the
10 American Waterworks Association.

11 (3) Sampling shall be carried out by customarily accepted methods.
12 The particular analyses involved will determine whether a 24-hour composite of all
13 outfalls of a premise is appropriate or whether a grab sample or samples should be
14 taken. Normally, but not always, BOD, COD, NH3N and TSS analyses are obtained
15 from 24-hour composites of all outfalls.

16 (4) Those industries suspected of discharging either high COD, BOD,
17 NH3N wastes or high TSS wastes shall be sampled for five consecutive days by grab
18 samples or 24-hour composite samples from a Utility manhole. If COD results exceed
19 500 mg/l, BOD results exceed 250 mg/l, NH3N results exceed 25 mg/l, or TSS results
20 exceed 330 mg/l on any of the three of the five consecutive days, or in any of the 24-
21 hour composite samples, a sampling manhole will be required for industries discharging
22 greater than 50,000 gallons per day or if required by the Water Authority's Sewer Use
23 and Wastewater Control Ordinance or successor Ordinance. Upon installation of the
24 sampling manhole, an automatic sampler with attached flow meter will be used to
25 gather a flow weighted composite which shall be used to compute a monthly surcharge.
26 Industries discharging less than 50,000 gallons per day and not otherwise requiring a
27 sampling manhole will be required to install a cleanout and an automatic sampler will be
28 used to gather a time-weighted composite which shall be used to compute a monthly
29 surcharge. Pretreatment may be required according to the Water Authority's Sewer Use
30 and Wastewater Control Ordinance or successor Ordinance.

31 (J) Sewer Credit. For those accounts included within the Sewer Credit
32 classification, a credit of \$9.62 per month will be applied to their billing; the billing shall

1 be calculated using the Fixed Monthly Charge and Commodity Charge as set forth in
2 this Ordinance.

3 (K) Customer utility statements shall contain the following itemized element:
4 "Facility Rehabilitation: \$`x,' where `x' shall be the cost of the rate increase to fund
5 facility rehabilitation."

6 1-1-6. WATER AND SEWER REHABILITATION FUND.

7 (A) An established portion of the revenue generated by fixed water rates and
8 the Water Commodity Charge shall be distributed to a Water and Sewer Rehabilitation
9 Fund. The fixed rate portion of the Water Rates contained in §1-1-3 (B) which shall be
10 distributed to the Water and Sewer Rehabilitation Fund are contained in the following
11 schedule of charges. The portion of the water commodity rate to be distributed to the
12 Water and Sewer Rehabilitation Fund shall be \$0.140 per unit.

13 Fixed Water Rates (per month)

14	Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi-
15	family						
16	1	5/8 X 3/4	\$1.16	\$1.18	\$2.48	\$1.24	\$1.48
17	2	1	2.21	2.25	4.89	2.38	2.87
18	3	1 1/2	7.61	7.77	17.34	8.26	10.03
19	4	2	17.07	17.45	39.15	18.55	22.59
20	5	3	31.45	32.15	72.25	34.18	41.59
21	6	4	75.02	76.68	172.63	81.55	99.27
22	7	6	115.11	117.67	264.89	125.14	152.32
23	8	8 & over	259.98	265.74	598.58	312.08	344.10

24 Effective July 1, 2013

25 Fixed Water Rates (per month)

26	Serv Size	Meter Size	Residential	Commercial	Industrial	Institutional	Multi-
27	family						
28	1	5/8 X 3/4	\$1.22	\$1.24	\$2.60	\$1.30	\$1.55
29	2	1	2.32	2.36	5.13	2.50	3.01
30	3	1 1/2	7.99	8.16	18.21	8.67	10.53
31	4	2	17.92	18.32	41.11	19.48	23.72
32	5	3	33.02	33.76	75.86	35.89	43.67
33	6	4	77.27	80.51	181.26	85.63	104.23

1	7	6	120.87	123.55	278.13	131.40	159.94
2	8	8 & over	272.98	279.03	628.51	327.68	361.31

3 [+Effective July 1, 2015 and July 1, 2017

4 A 5 percent increase is approved and will be implemented based upon the Water
5 Authority's Cost of Service Rate Model.+]

6 (B) In addition to the portion of the commodity rate to be distributed to the
7 Water and Sewer Rehabilitation fund as identified in §1-1-5(D) above, the following
8 fixed rate portions of the sewer rates contained in §1-1-5 (C) shall be distributed to the
9 Water and Sewer Rehabilitation Fund.

10 Fixed Monthly Rehabilitation Charges

11	Serv Size	Meter Sz	Resid	Comm	Indust	Instit	Multi-fam	Wholesale
12	1	5/8 X 3/4	\$1.89	\$2.34	\$10.63	\$1.81	\$3.14	\$2.38
13	2	1	3.07	3.83	18.00	2.92	5.20	3.92
14	3	1 1/2	12.53	15.86	77.51	11.92	21.80	16.22
15	4	2	31.17	39.55	197.76	29.65	54.52	40.48
16	5	3	41.76	52.99	261.25	39.70	73.07	54.23
17	6	4	88.96	112.96	557.99	84.57	155.86	115.63
18	7	6	118.46	150.47	743.53	112.61	207.63	154.01
19	8	8 & over	210.59	297.52	1322.75	200.18	369.24	273.84

20 Effective July 1, 2013

21 Fixed Monthly Rehabilitation Charges

22	Serv Size	Meter Sz	Resid	Comm	Indust	Instit	Multi-fam	Wholesale
23	1	5/8 X 3/4	\$1.98	\$2.43	\$11.16	\$1.90	\$3.30	\$2.50
24	2	1	3.22	4.02	18.90	3.07	5.46	4.12
25	3	1 1/2	13.16	16.65	81.39	12.52	22.89	17.06
26	4	2	32.73	41.53	207.65	31.13	57.25	42.50
27	5	3	43.85	55.64	274.31	41.69	76.72	56.94
28	6	4	93.41	118.61	585.89	88.80	163.65	121.41
29	7	6	124.38	157.99	780.71	118.24	218.01	161.71
30	8	8 & over	221.12	312.40	1388.89	210.19	387.70	287.53

31 [+Effective July 1, 2015 and July 1, 2017

32 A 5 percent increase is approved and will be implemented based upon the Water
33 Authority's Cost of Service Rate Model.+]

[+Bracketed/Underscored Material+] - New
 [-Bracketed/Strikethrough Material-] - Deletion

1 Monthly Rehabilitation Charges for KAFB

2 Item KAFB

3 Per Month \$7,603.83

4 Effective July 1, 2013

5 Monthly Rehabilitation Charges for KAFB

6 Item KAFB

7 Per Month \$7,984.02

8 [+Effective July 1, 2015 and July 1, 2017

9 A 5 percent increase is approved and will be implemented based upon the Water
10 Authority's Cost of Service Rate Model.+]]

11 (C) Committed expenditures for the rehabilitation of water wells, pump
12 stations, reservoirs, service lines, other water lines, gate valves and the committed
13 expenditures for rehabilitation of sewer lines, odor control stations, pumping stations
14 and treatment facilities from revenues in the Water and Sewer Rehabilitation Fund shall
15 not be less than \$30 million dollars per year.

16 (D) The distributions from water and sewer rates to the Water and Sewer
17 Rehabilitation Fund shall be reviewed every five years and updated as needed to adjust
18 for construction inflation, new capital inventory, rate increases and other factors.

19 1-1-7. WATER AND SEWER SYSTEM AND UTILITY FINANCIAL POLICIES.

20 (A) The term of each and every instrument of debt shall be 12 years or less;
21 except for sustainable water supply projects. This policy shall not apply to the possible
22 acquisition of other operating water and wastewater utility systems or to mitigate short
23 term rate impacts.

24 (B) At a minimum, an average of 50 percent of the cost of capital projects
25 which constitute the normal capital program of the water and sewer system including
26 the rehabilitation and replacement of existing facilities, and the construction of water
27 wells, pump stations, reservoirs, service lines, other water lines, gate valves, revenue
28 meters and meter boxes, sewer lines, odor control stations, and pumping stations, and
29 treatment facilities shall be paid with cash rather than borrowed funds. The normal
30 capital program excludes special capital projects such as the expansion of the
31 wastewater treatment plants, arsenic mitigation, state and federal grant projects, state
32 and federal mandated projects, and related to water resources management to achieve
33 a sustainable supply of water. This policy shall not apply to the possible acquisition of

1 other operating water and wastewater utility systems or to mitigate short term rate
2 impacts.

3 (C) At a minimum, 25 percent of the cost of capital projects not included in the
4 normal capital program of the water and sewer system shall be paid with cash rather
5 than borrowed funds. This policy shall not apply to the possible acquisition of other
6 operating water and wastewater utility systems sustainable water supply or to mitigate
7 short term rate impacts.

8 (D) Utility Expansion Charge (UEC) revenues or those of successor
9 development fees in excess of \$6,000,000 per year shall be transferred to the Joint
10 Water and Sewer Capital Funds. The transfer of these funds shall be made in the fiscal
11 year following the most recent audited Comprehensive Annual Financial Report.

12 (E) Utility Expansion Charge rates shall be based on adopted policies of the
13 Water Authority.

14 (F) Appropriations of cash transfers from water and sewer utility operating
15 funds or debt service funds to a Joint Water and Sewer Capital Fund shall be made in
16 the amounts appropriated during the year for which the appropriations have been made.

17 (G) The Water Authority has implemented an asset management program to
18 manage its capital infrastructure focusing on minimizing the total cost of designing,
19 acquiring, operating, maintaining, replacing, and disposing of capital assets over their
20 life cycle while achieving desired service levels. [+It will allow the Water Authority to
21 manage existing assets more effectively, make informed decisions on policy and
22 budgetary matters, and plan for future needs. Based upon this program the Authority
23 will begin to incrementally increase its Capital Implementation Program spending at
24 approximately \$3 million a year until the Authority can reach and sustain a spending
25 level of approximately \$76 million a year.+]

26 (H) A Rate Reserve Fund is established for reserving water and sewer
27 revenues in a dedicated fund for the purpose of offsetting declines in rate revenue and
28 to mitigate future rate increases. This Rate Reserve Fund will be funded at \$2 million
29 per year. ~~[- This Rate Reserve Fund may be increased annually based on excess~~
30 ~~funding over \$10 million in the Water Authority's Working Capital Balance. -]~~ By Fiscal
31 Year 2015 the ~~[- target -]~~ [+goal+] for the Water Authority~~[- 's -]~~ [+is to achieve and
32 maintain a+] Working Capital Balance [+that+] will be 1/12 of the Water Authority's

1 annual budgeted expenditures. Any expenditure from this Rate Reserve Fund will
 2 require an appropriation approved by the Water Authority Board.

3 1-1-8. UTILITY EXPANSION CHARGE (UEC) and WATER SUPPLY CHARGE (WSC).

4 (A) (1) A UEC charge will be paid to the Water Authority at the time of
 5 meter sale or application for service for all properties connecting to the water and/or
 6 wastewater system in accordance with the following schedule. The amount of the UEC's
 7 shall be adjusted annually by building cost or construction cost indices (BCI or CCI) as
 8 published by the Engineering News Record (ENR). Where water service does not exist
 9 and sewer service is to be taken and the sewer UEC is applicable, the charge shall be
 10 based upon the wastewater flow. A unit of flow is equal to 100 cubic feet.

11 (a) Financing for Water UEC

12 Finance for Water UEC

13 ~~[- Water Meter Size Water Payment Minimum Cash Down Balance to Finance~~

14 5/8 X 3/4"	\$2,692	\$135	\$2,557
15 1"	4,487	224	4,263
16 1 1/2"	8,974	449	8,525
17 2"	14,359	718	13,641
18 3"	28,715	1,436	27,279
19 4"	44,868	2,243	42,625
20 6"	89,738	4,487	85,251
21 8" or More	143,581	7,179	136,917 -]

22 [+ Water Meter Size Water Payment Minimum Cash Down Balance to
 23 Finance

24 <u>5/8 X 3/4"</u>	<u>\$2,765</u>	<u>\$138</u>	<u>\$2,627</u>
25 <u>1"</u>	<u>4,608</u>	<u>230</u>	<u>4,378</u>
26 <u>1-1/2"</u>	<u>9,216</u>	<u>461</u>	<u>8,755</u>
27 <u>2"</u>	<u>14,747</u>	<u>737</u>	<u>14,010</u>
28 <u>3"</u>	<u>29,490</u>	<u>1,475</u>	<u>28,015</u>
29 <u>4"</u>	<u>46,079</u>	<u>2,304</u>	<u>43,775</u>
30 <u>6"</u>	<u>92,161</u>	<u>4,608</u>	<u>87,553</u>
31 <u>8" or More</u>	<u>147,458</u>	<u>7,373</u>	<u>140,085+]</u>

32 (b) Financing for Sewer UEC

33 Finance for Wastewater UEC

1	[- Water Meter Size Liquid Waste Flow Sewer		Minimum	Balance to	
2			Payment Cash Down	Finance	
3	5/8 X 3/4"	0-10	\$2,019	\$101	\$1,918
4	1"	11-19	3,366	168	3,198
5	1-1/2"	20-63	6,729	336	6,393
6	2"	64-82	10,768	538	10,230
7	3"	83-343	21,588	1,079	20,509
8	4"	344-599	33,649	1,682	31,967
9	6"	600-803	67,300	3,365	63,935
10	8" or More	804 & over	107,681	5,384	102,297 -]
11	[+Water Meter Size Liquid Waste Flow Sewer		Minimum	Balance to	
12			Payment Cash Down	Finance	
13	<u>5/8 X 3/4"</u>	<u>0-10</u>	<u>\$2,074</u>	<u>\$104</u>	<u>\$1,970</u>
14	<u>1"</u>	<u>11-19</u>	<u>3,457</u>	<u>173</u>	<u>3,284</u>
15	<u>1-1/2"</u>	<u>20-63</u>	<u>6,911</u>	<u>346</u>	<u>6,565</u>
16	<u>2"</u>	<u>64-82</u>	<u>11,059</u>	<u>553</u>	<u>10,506</u>
17	<u>3"</u>	<u>83-343</u>	<u>22,171</u>	<u>1,109</u>	<u>21,062</u>
18	<u>4"</u>	<u>344-599</u>	<u>34,556</u>	<u>1,728</u>	<u>32,828</u>
19	<u>6"</u>	<u>600-803</u>	<u>69,117</u>	<u>3,456</u>	<u>65,661</u>
20	<u>8" or More</u>	<u>804 & over</u>	<u>110,588</u>	<u>5,529</u>	<u>105,059+]</u>

(2) The UEC may be paid in full or paid over time with an initial minimum of 5 percent down payment and the balance shall be subject to a fixed monthly charge to include a carrying charge set at 7 percent per annum. On all connections, the balance shall be paid in full within 120 months.

(3) The fixed monthly charge for the UEC shall run against the property and be the responsibility of any subsequent owner until paid in full. All monies collected through the imposition of the UEC, including the fixed monthly charge, shall be placed in a separate account to be used for financing the expansion for the water and sewer system.

(B) Reactivation of disconnected service. No refund of UEC will be made for a service downsizing. Reconnections requesting larger service than was originally installed shall pay UEC determined by subtracting the current charge for the original service size from the current charge for the new service size requested.

1 (C) Charges for multiple residential units:

2 (1) Requests for residential or commercial water and/or sewer service
3 which will provide for more than one residential unit will pay UEC according to one of
4 the following schedules:

5 (a) Apartment Complexes.

6 (i) With 30 dwelling units or less shall pay 50 percent of
7 the product of the total number of units times the water and/or sanitary sewer UEC for a
8 5/8" x 3/4" water meter.

9 (ii) With more than 30 dwelling units shall pay the amount
10 given by the equation below:

11
$$\text{Equivalent Units} = (0.45) \times (\text{No. of Units}) + 1.49$$

12
$$\text{Total UEC} = (\text{Equivalent Units}) \times (5/8" \times 3/4" \text{ Meter UEC})$$

13 (b) Mobile Home Parks, regardless of size, shall pay 53 percent
14 of the product of the total number of dwelling units times the water and/or sanitary
15 sewer UEC for a 5/8" x 3/4" water meter.

16 (c) Condominiums, regardless of size, shall pay 53 percent of
17 the product of the total number of dwelling units times the water and/or sanitary sewer
18 UEC for a 5/8" x 3/4" water meter.

19 (d) Commercial service shall pay the larger of the following:

20 (i) The water and/or sewer UEC as shown in §1-1-8(A).

21 (ii) 50 percent of the product of the number of equivalent
22 residential units times the water and/or sewer UEC charge for a 5/8" x 3/4" meter.

23 (e) Low income housing developments shall pay the greater of
24 either:

25 (i) Eight percent of the product of the total number of
26 dwelling units times the water and sanitary sewer UEC set forth in § 1-1-8(A)1 of this
27 Ordinance for a 5/8" x 3/4" water meter; or,

28 (ii) The UEC set forth in § 1-1-18(A)1 of this Ordinance
29 for the meter size required to service the development. The size shall be determined by
30 the Water Authority based on the number of water fixture units described in AWWA M-
31 22.

32 (f) At the time the water and sewer UEC is due and payable for
33 a low income housing development, the owner of the low income housing development

1 shall give the Water Authority a promissory note in the principal amount that is equal to
 2 the difference between the amount of the water and sewer UEC set forth in §1-1-8(A)1
 3 of this Ordinance for a 5/8" x 3/4" water meter and the amount of the water and sewer
 4 UEC set forth in §1-1-8(C)(1)(e). The promissory note shall be due and payable on the
 5 date the Low Income Housing Development ceases to qualify as a low income housing
 6 development as defined in §1-1-2(A). The promissory note shall not bear any interest
 7 from the date of the promissory note with maturity date of the promissory note. The
 8 promissory note shall bear interest at the rate imposed by §1-1-8(A)(2) from the maturity
 9 date of the promissory note until the date the promissory note is paid. The promissory
 10 note shall be secured by a mortgage on the low income housing development that is
 11 subject and subordinate only to mortgages securing the costs to purchase the land for
 12 the low income housing development and to design and construct the low income
 13 housing development.

14 (2) If the service requested necessitates modification and/or installation
 15 of additional facilities other than those already in existence and available to serve the
 16 property, then the cost of such modifications and/or additional facilities shall be applied
 17 and apportioned according to existing Water Authority policy.

18 (D) (1) A Water Supply Charge (WSC), as specified herein, will be
 19 assessed by the Water Authority at the time of meter sale or application for service to
 20 any new water user customer requesting connection to the water system in an area
 21 requiring new or enhanced infrastructure through a service expansion in accordance
 22 with § 1-1-8(D)(1)[-(a)]. The proceeds from this charge will be dedicated and restricted
 23 to the development of new water resources, rights or supplies to serve the beneficiary
 24 new customers outside of the established infrastructure consistent with the Water
 25 Authority's Regional Water Plan and Water Resources Management Strategy and other
 26 guiding principles adopted by the Water Authority. The amount of the WSC shall be
 27 adjusted annually by building cost or construction cost indices (BCI or CCI) as published
 28 by the Engineering News Record (ENR). The WSC fee does not apply to non-potable
 29 water service.

30 ~~[-(a)-]~~ Financing for Water Supply Charge - WSC

31	[- Water Meter Size	Water Payment	Minimum Cash Down	Balance to Finance
32	5/8 X 3/4"	\$1,390	\$70	\$1,320
33	1"	2,325	116	2,209

1	1 1/2"	4,633	232	4,401
2	2"	7,414	371	7,043
3	3"	14,827	741	14,086
4	4"	23,166	1,158	22,008
5	6"	46,434	2,322	44,112
6	8" or More	74,133	3,707	70,426 -]
7	<u>[+Water Meter Size Water Payment Minimum Cash Down Balance to Finance</u>			
8	<u>5/8 X 3/4"</u>	<u>\$1,428</u>	<u>\$71</u>	<u>\$1,357</u>
9	<u>1"</u>	<u>2,388</u>	<u>119</u>	<u>2,269</u>
10	<u>1-1/2"</u>	<u>4,758</u>	<u>238</u>	<u>4,520</u>
11	<u>2"</u>	<u>7,614</u>	<u>381</u>	<u>7,233</u>
12	<u>3"</u>	<u>15,227</u>	<u>761</u>	<u>14,466</u>
13	<u>4"</u>	<u>23,791</u>	<u>1,190</u>	<u>22,601</u>
14	<u>6"</u>	<u>47,688</u>	<u>2,384</u>	<u>45,304</u>
15	<u>8" or More</u>	<u>76,135</u>	<u>3,807</u>	<u>72,328+]</u>

(2) The WSC may be paid in full or paid over time with an initial minimum of 5 percent down payment and the balance shall be subject to a fixed monthly charge to include a carrying charge set at 7 percent per annum. On all new hook-up connections, the balance shall be paid in full within 120 months.

(3) The fixed monthly fee for the WSC shall run against the property and be the responsibility of any subsequent owner until paid in full. All monies collected through the imposition of the WSC shall be placed in a separate account to be used for financing the development of additional long term water supplies to serve expansions of the Water Authority's service area subsequent to June 15, 2007.

(4) The WSC is not reimbursable under the line extension policy. All revenues generated from the WSC will be maintained in it's own activity and to be used only as specified in § 1-1-8(D)(1).

1-1-9. SPECIFIC SERVICES.

Fees for specific services shall be as follows:

(A) Metered Service Lines.

- (1) 5/8 X 3/4" meter set only, \$295
- (2) 1" meter set only, \$ 355
- (3) 1 1/2" meter set only, \$555

- 1 (4) 2" meter set only, \$635
- 2 (5) 3" metered service line installation.
- 3 (a) 3" meter set only with compound meter without vault, \$2,185
- 4 (6) 4" metered service line installation.
- 5 (a) 4" meter set only with compound meter without vault, \$3,125
- 6 (b) 4" meter set only with fire assembly meter without vault
- 7 \$7,210
- 8 (7) 6" metered service line installation.
- 9 (a) 6" meter set only with compound meter without vault, \$5,140
- 10 (b) 6" meter set only with fire assembly meter without vault
- 11 \$7,520
- 12 (8) 8" metered service line installation.
- 13 (a) 8" meter set only with fire assembly without vault \$13,040
- 14 (9) 10" and larger: Contact the Utility for price quote
- 15 (B) Meter Size Reduction Installation.
- 16 (1) 5/8 X 3/4" through 1-1/2", \$85
- 17 (2) 2", \$170
- 18 (3) 3" and larger, contact the Utility for price quote
- 19 (C) Nonpayment Delinquency Fee.
- 20 (1) 5/8 X 3/4" and 1", \$45
- 21 (2) 1-1/2" through 10", \$60
- 22 (D) Combined Fire-Domestic Meters.
- 23 (1) Requests for this type of metered service, which provide both fire
- 24 protection and domestic-irrigation service, may be made at the New Services Section of
- 25 Utility Development. Upon the satisfactory determination of peak flow water delivery
- 26 requirements, as certified by an engineer registered in the State [+ of New Mexico +], in
- 27 accordance with the City [- of Albuquerque's -] and the County [- of Bernalillo's -] fire
- 28 codes and the AWWA M22 an equivalent meter size will be determined for the service.
- 29 Fixed monthly charges for private fire protection shall also be applied commensurate
- 30 with the degree of fire protection capacity being provided.
- 31 (2) Fees for installation (set only) is in §1-1-9(A).
- 32 (E) Cross Connection Fees

1 (1) Containment Inspection Fees. An inspection fee of \$50 shall be
2 assessed to all customers required to have premise inspections to cover expenses
3 incurred by the Water Authority during the initial inspection of the premise. The
4 inspection fee shall be assessed only to those customers whose premise are not in
5 compliance with this Ordinance at the time of inspection.

6 (2) Backflow Prevention Assembly Administrative Charge. All
7 customers required to provide cross-connection control by containment and/or isolation
8 shall be assessed an annual administrative fee of \$30 (fee is not to be prorated in case
9 of change in ownership) for each backflow prevention assembly located at the premise.
10 This fee incorporates expenses incurred by the Water Authority to maintain records, to
11 process required testing notices and to enter data as required.

12 1-1-10. FRANCHISE FEE.

13 [- (A) -] There shall be a charge of [+ four +] [- 4 -] percent on the total sales
14 of water and sewer services added to customer billings to compensate the Water
15 Authority for the franchise fee charged by the City, County and the Village of Los
16 Ranchos and a charge of [+ two +] [- 2 -] percent on the total sales of water and sewer
17 services added to customer billings to compensate the Water Authority for the franchise
18 fee charged by the City of Rio Rancho for the granted authorization to use rights-of-way
19 and public places to construct, operate, and maintain water and wastewater systems

20 1-1-11. PAYMENT.

21 All charges shall be payable at the office of the City Treasurer, City Hall,
22 Albuquerque, New Mexico, or other locations as designated by the Water Authority and
23 will become delinquent 15 days following the "due by" date on the Customer's utility
24 statement.

25 1-1-12. PENALTY FOR DELINQUENT ACCOUNTS.

26 A penalty of 1.5 percent per month may be imposed on all delinquent accounts.

27 1-1-13. RESPONSIBILITY OF PAYMENT, LIENS, AND DEPOSIT.

28 (A) The assessed fees and service charges provided for herein are the
29 personal responsibility of the owner of record, as reported by the Bernalillo County
30 Assessor for the real property served.

31 (B) The Water Authority may file a lien of record on such real property for
32 such charges including any interest or penalties accruing on same.

1 (C) Reasonable deposits may be required of any Customer including tenants.
2 Deposits not to exceed [+ six +] [- 6 -] months in duration. Such deposits and accrued
3 interest shall be applied to the utility account immediately upon becoming delinquent or
4 the expiration of [+ six +] [- 6 -] month period. Any credit status created by applying the
5 deposit will be absorbed by the monthly service charges and considered prepayments
6 for services. Such deposits shall draw reasonable interest.

7 1-1-14. DISCONTINUANCE OF SERVICE; HEARING.

8 (A) The Water Authority may cause the water supply to be turned off and
9 discontinue service to the property if any charge provided for herein remains unpaid for
10 a period of 30 days from the "due by" date on the Customer's utility statement. Service
11 may not be discontinued for delinquencies of a previous owner[- ~~or~~][+u+]nless a lien,
12 or record has been filed prior to the real property changing ownership or responsibility[-
13 ~~or~~], with the Bernalillo County Clerk indicating that outstanding Utility charges remain[+u+]
14 [- and the lien has been filed to protect the Water Authority asset. -]

15 (B) In order to discontinue service, a written notice shall be sent to the
16 Customer [-giving him-] at least ten calendar days notice [+before+] [- of the -]
17 termination of service and notice of [- his -][+the+] right to protest the Water Authority's
18 proposed action at an administrative hearing.

19 (C) The Customer must request in writing that a hearing be held and such
20 request must be received by the Executive Director on or before the date the services
21 are to be terminated. [If the Customer requesting the hearing is not the owner of
22 record, the Customer must provide proof that the owner of record will be bound by the
23 decision of the hearing officer. +]

24 (D) At such hearing, the Customer may present evidence as the Water
25 Authority and the Executive Director may affirm, overrule or modify the decision to
26 terminate the services. The decision shall be final.

27 (E) In the event a hearing is requested, the services shall not be terminated
28 until and in accordance with that decision.

29 (F) A nonrefundable hearing fee of \$50.00 shall accompany each appeal filed
30 pursuant to this §1-1-1[+ 4 +] [- 3 -].

31 (G) For purposes of expediting the satisfaction of delinquent accounts the
32 Executive Director may at his discretion waive, credit, and or remove penalty fees or
33 other fees from any account.

1 1-1-15. EFFECTIVE DATE AND PUBLICATION

2 The effective date of this Ordinance will be July 1, [- 2014 -] [+2012+] unless
3 otherwise stated.

4 1-1-98. PROHIBITIONS.

5 (A) No person shall use or cause to be used any water produced or
6 distributed by the Water Authority without the consent of Water Authority. Water
7 distributed through authorized meter or obtained by any means authorized by
8 ordinances or administration rules and regulations shall constitute the consent of the
9 Water Authority.

10 (B) No person shall discharge or cause to be discharged any liquid waste to
11 the liquid waste collection or treatment system operated by the Water Authority without
12 the consent of the Water Authority and compliance with the Water Authority's Sewer
13 Use and Waste Water Control Ordinance. Approved connections or permits shall
14 constitute such consent.

15 (C) No person shall willfully break, injure, or tamper with any property of the
16 Water Authority, including but not limited to: wells, pump stations, reservoirs, sewage
17 treatment plants, lift stations, distribution lines, fire hydrant service lines, meters, gate
18 valves, manhole covers or grates.

19 (D) Violation of any of the above described Prohibitions constitutes a violation
20 of the conditions of Water Authority service and shall be subject to a connection service
21 charge of \$400.00 per occurrence and charges for one year of usage based upon prior
22 usage or the customer class average or termination of service.

23 Section 2. SEVERABILITY CLAUSE. If any Section, paragraph, sentence,
24 clause, work or phrase of this Ordinance is for any reason held to be invalid or
25 unenforceable by any court of competent jurisdiction, such decision shall not affect the
26 validity of the remaining provisions of this Ordinance. The Water Authority hereby
27 declares that it would have passed this Ordinance and each Section, paragraph,
28 sentence, clause, word or phrase thereof irrespective of any provision being declared
29 unconstitutional or otherwise invalid.

30
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[+Bracketed/Underscored Material+] - New
[-Bracketed/Strikethrough Material-] - Deletion

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Rate Ordinance



Albuquerque Bernalillo County
Water Utility Authority

Proposed Ordinance Amendments

- 5% Rate Adjustment for FY16 and FY18 to incrementally increase Capital Spending by \$3 million annually, upgrade Reclamation Facility and achieve a fund balance of 1/12 of budgeted expenditures
- Adjust Utility Expansion Charges and the Water Supply Charge by the ENR (Engineering News Report) index of 2.7% for FY13 as required Ordinance

Consistency and Clarification Amendments

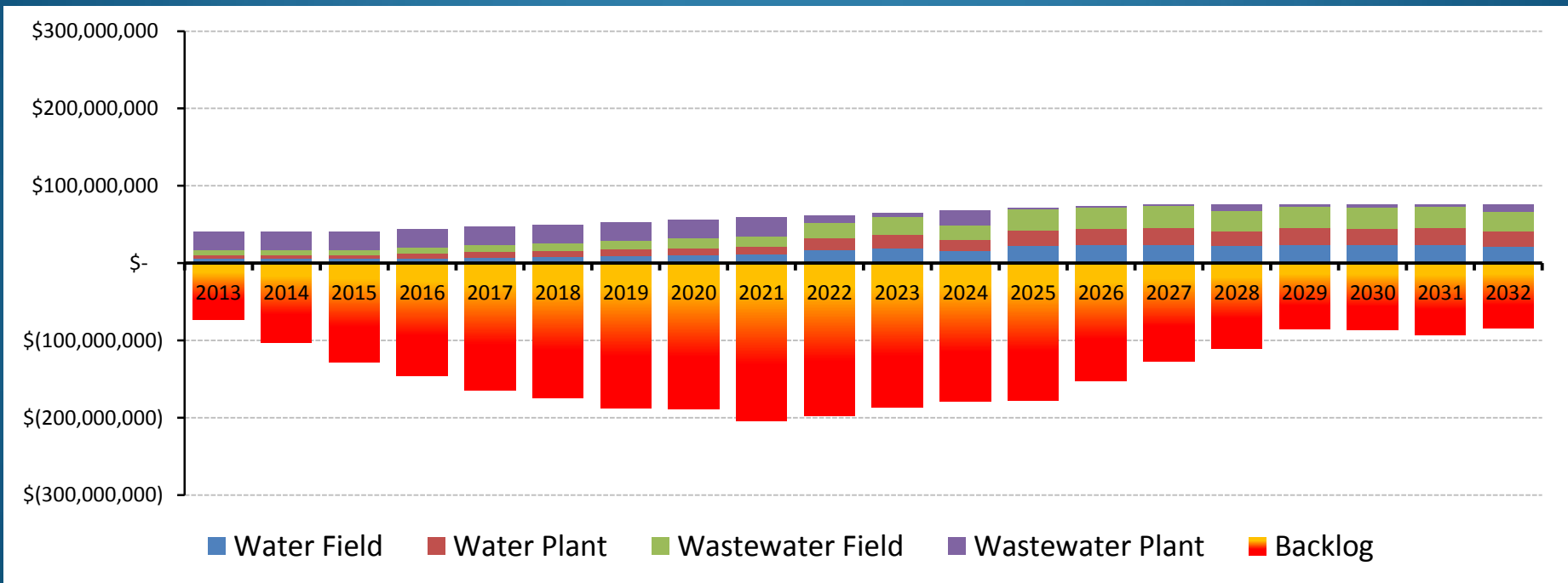
- Make the irrigation budget surcharges consistent with other accounts
- Make the procedures for establishing irrigation budgets consistent with existing policy
- Adjust dates and definitions as necessary

Finance Plan FY13

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Resources	179,178	192,015	210,964	222,827	227,881	229,290	223,545	214,619	202,245	191,732
Expenditures	177,925	181,593	191,594	201,362	208,012	218,217	224,495	231,087	232,419	234,796
Resources over Expenditures	1,253	10,422	19,370	21,465	19,869	11,073	(950)	(16,468)	(30,174)	(43,064)
Rate Increases	5%	0	5%	0	0%	0	0	0	0	0

Renewal Backlog

Current Decade Plan Spending with Increase of \$3-million per year starting in FY2017

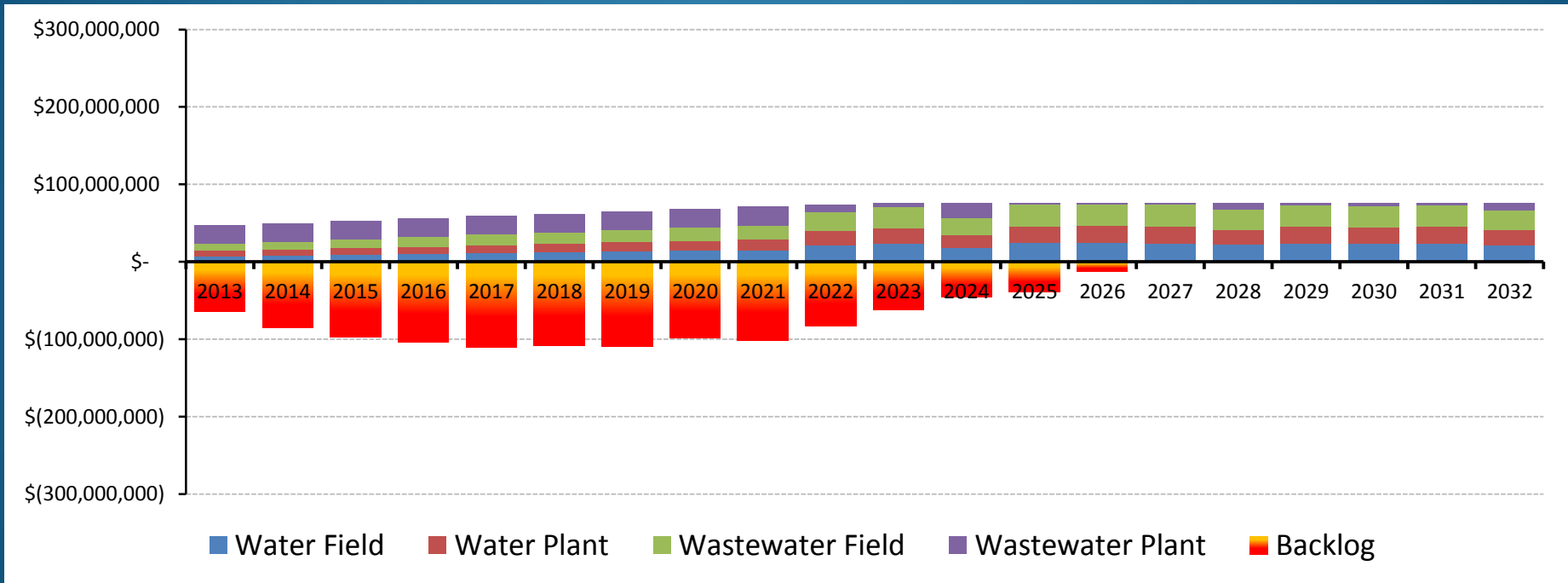


Finance Plan – Increase CIP Spending/Reserves

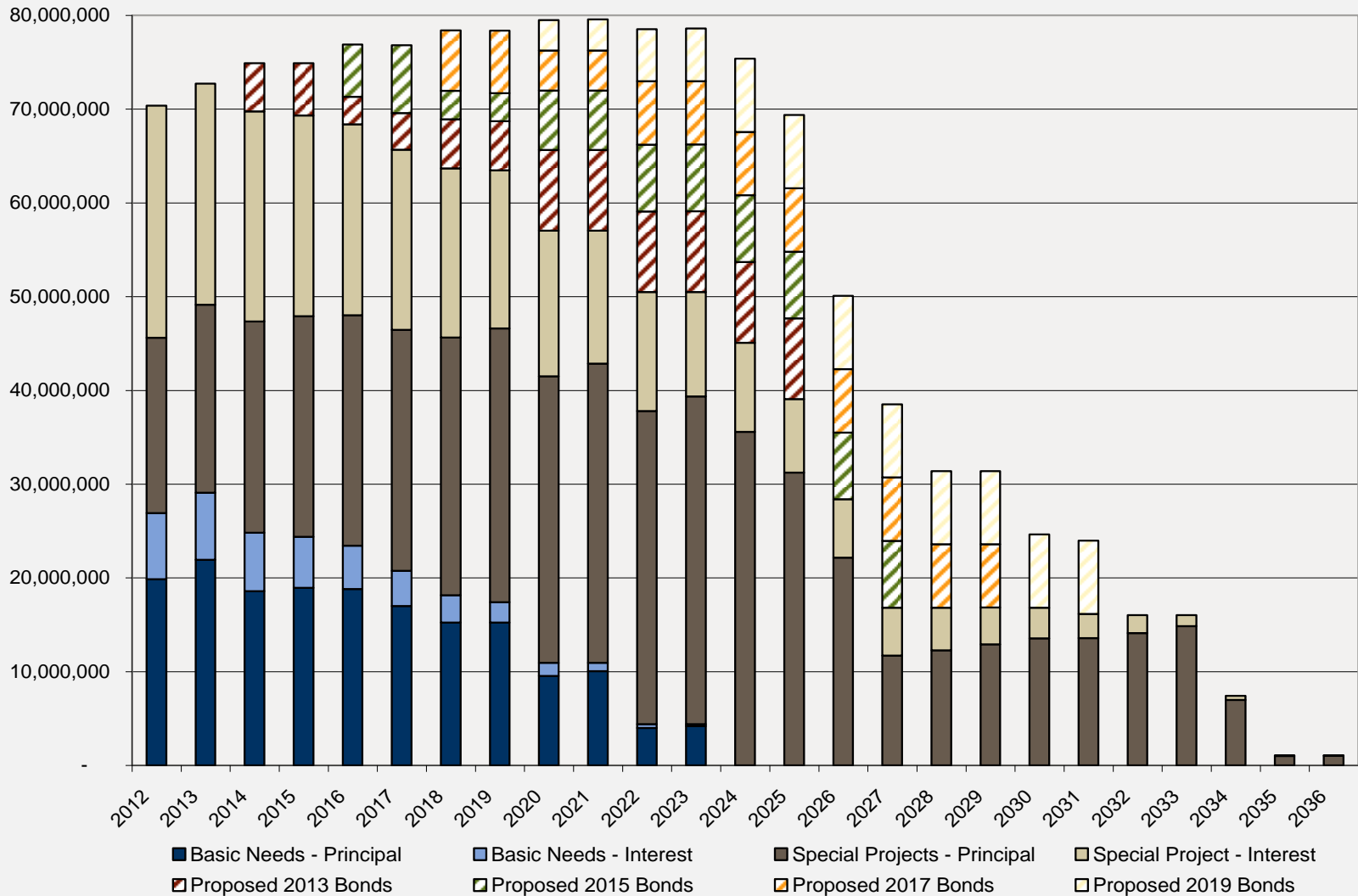
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Resources	179,178	192,015	210,963	222,826	236,244	242,184	251,310	258,151	262,461	267,570
Expenditures	177,925	181,593	191,594	202,384	213,008	223,162	229,921	237,016	240,874	245,802
Resources over Expenditures	1,253	10,422	19,369	20,442	23,236	19,022	21,389	21,135	21,588	21,768
Rate Increases	5.00%	0.00%	5.00%	0.00%	5.00%	0.00%	5.00%	0.00%	0.00%	0.00%

Renewal Backlog

Current Decade Plan Spending with Increase of \$3-million per year starting in FY2015



Combined Debt Service – All Debt



Asset Management Program

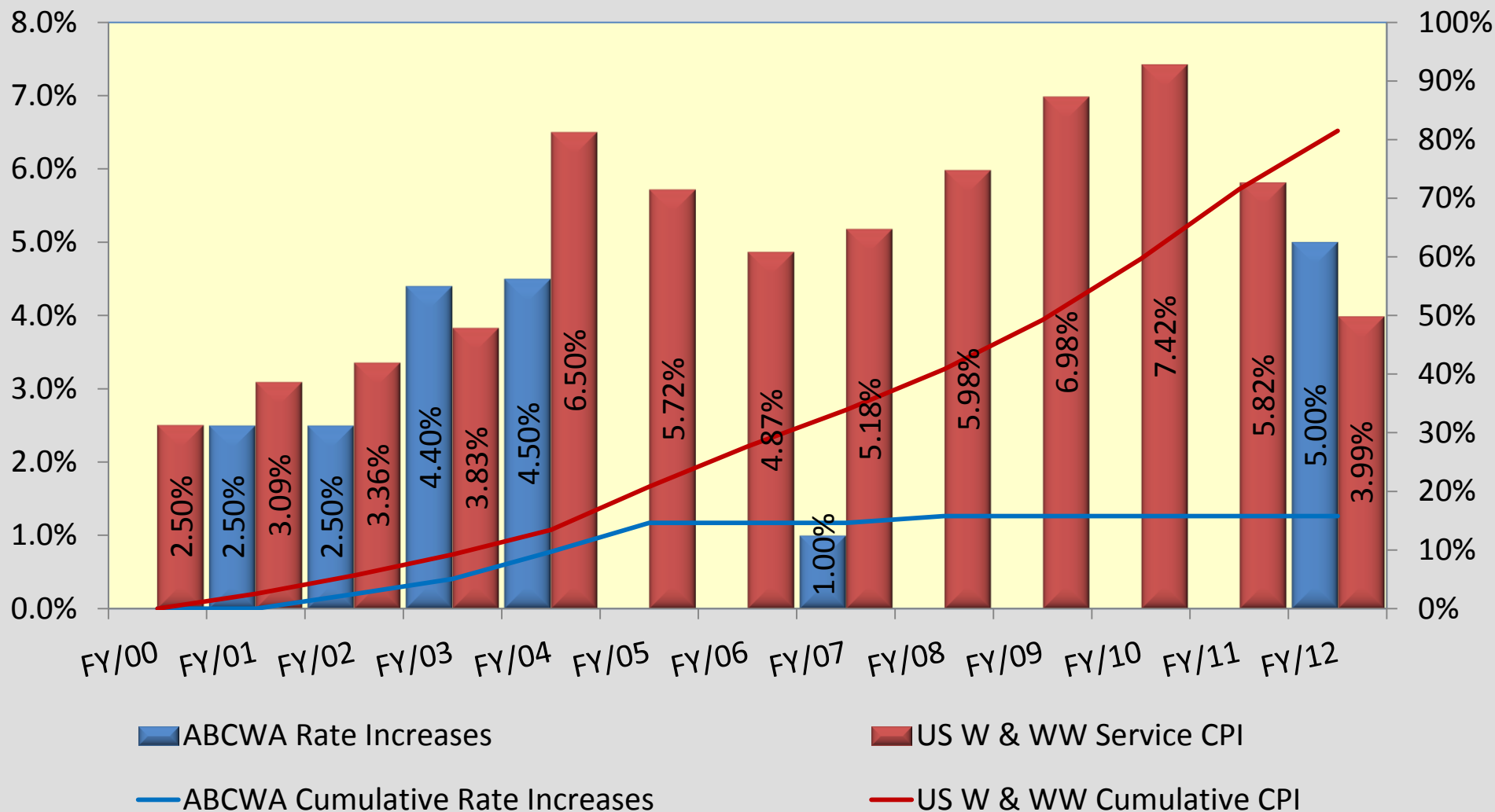
Asset/Infrastructure Categories

Sewer Plant,
\$606 Mil



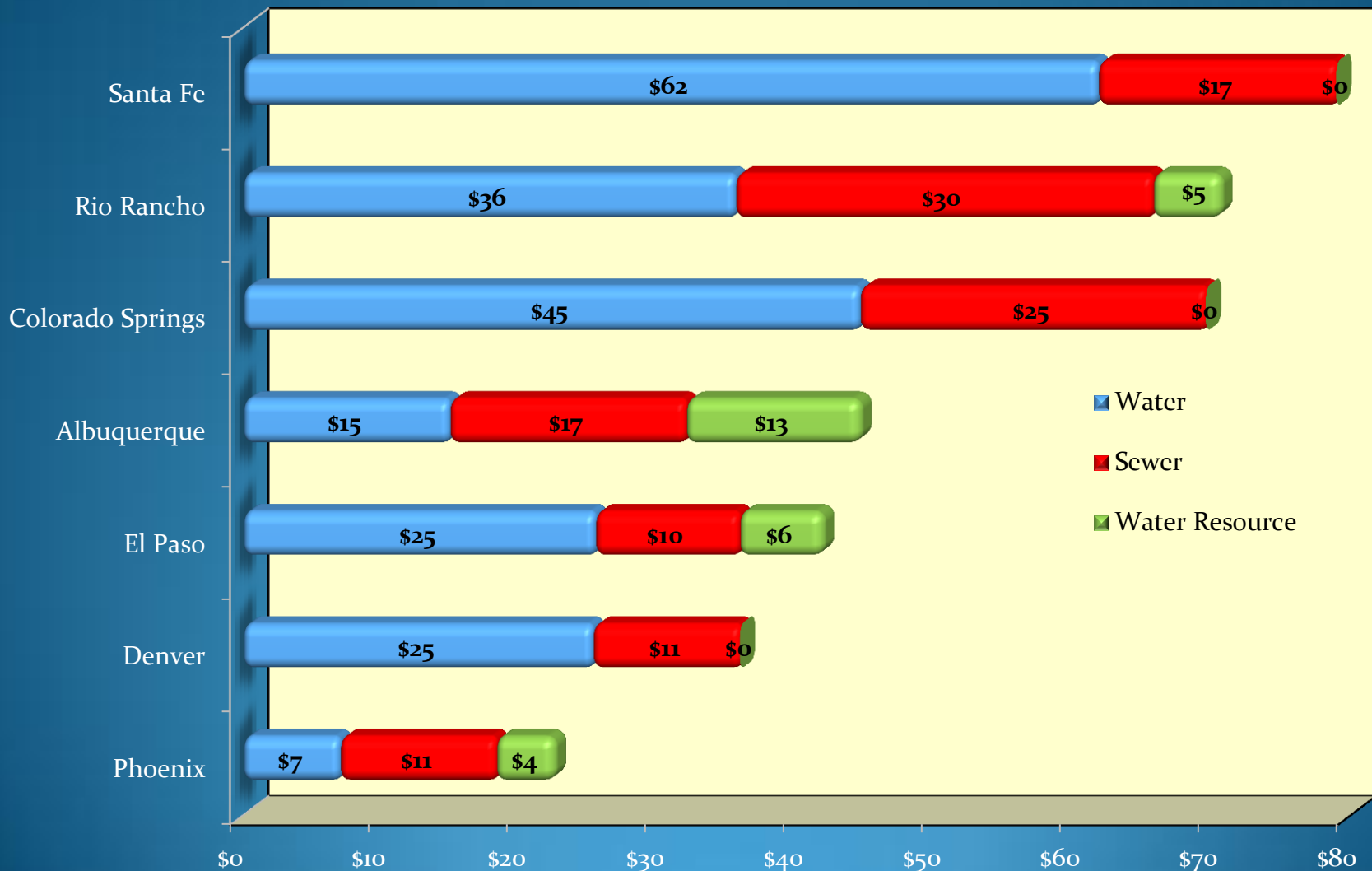
Total Asset Replacement
Cost \approx \$5.0 billion
(2010 dollars)

Rate Increases Over Past 12 Years vs. CPI Trend



Bill Comparison – Low Use

Total Single Family Residential Bill, 8 CCF (6CCF AWC)



Bill Comparison – High Use

Total Single Family Residential Bill, 20 CCF (8 CCF AWC)



Average Rate Impact to Customers

- Fiscal Year 2014 – monthly water and sewer cost will increase from \$45 to \$48
- Fiscal Year 2016 – monthly water and sewer cost will increase from \$48 to \$51
- Fiscal Year 2018 – monthly water and sewer cost will increase from \$51 to \$54

Meeting Date: June 20, 2012

Staff Contact: Sharon Sivinski, Education Coordinator, Water Conservation Office

TITLE: C-12-9 - Recommendation of Award - Water Resources Education – River Day Programs, Classroom Presentations and Public Events, P2012000025

ACTION: Recommend Approval

SUMMARY:

This four-year contract will provide in-class water resource education for approximately 600 K-12 classrooms, and full-day field trips to the Rio Grande Nature Center and the Rio Grande for approximately 60 classes of fourth graders.

The Ad Hoc committee included Sharon Sivinski (Education Coordinator), Katherine Yuhas (Water Conservation Officer), David Morris (Public Affairs Manager), and Thomas Courtin (Senior Buyer, Purchasing). The committee met on May 22nd and unanimously recommended award of contract to the sole bidder, Essential Environmental & Educational (*E*³).

FISCAL IMPACT:

The cost of this contract is \$147,180 annually and is budgeted in the Water Resources Contractual Services.

COMMENTS:

The ad hoc committee recommendation of award and scoring is attached.



Memo

To: Mark Sanchez, Executive Director
From: Sharon Sivinski, Education Coordinator
Date: 5/23/2012
Re: Recommendation Of Award, P2012000025, Water Resources Education, River Day Programs, Classroom Presentations and Public Events

The City of Albuquerque Department of Finance and Administrative Services, Purchasing Division, issued the subject Request for Proposals (RFP) for the Albuquerque Bernalillo County Water Utility Authority to solicit proposals from qualified vendors to provide Water Resources Education services.

The RFP was posted on the Sicomm website and advertised in the local newspaper. One (1) response was received and submitted for evaluation.

The ad hoc evaluation committee reviewed, evaluated, and scored the response in accordance with the evaluation criteria published in the RFP.

The committee recommended the award of contract to Essential Environmental & Educational (E³) Services, the only respondent submitting a response and meets all requirements of the RFP.

I concur with the committee's recommendation. Listed is the respondent's composite score:


<u>Offeror</u>	<u>Total Composite Score</u>
Essential Environmental & Educational (E ³) Services	2,975.5 of 3,000

Since only one response was received, I recommend that the protest be waived.

Water Authority Board approval is required for this procurement. Negotiations with the vendor shall begin immediately upon your approval.

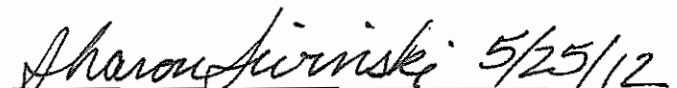
Approved:

Recommended:



Mark Sanchez
Executive Director

5/25/12
Date



Sharon Sivinski
Education Coordinator

Date

Attachment:

Composite Score Sheet

Original:

Thomas Courtin, Senior Buyer, ABCWUA, DFAS

Copy:

Ramona Martinez, Materials Management Officer, DFAS

File:

P2012000025

Water Resources Education – River Day Programs, Classroom Presentations and Public Events
P2012000025

EVALUATOR	EVALUATION CRITERIA	EVALUATION FACTORS	OFFERORS			
			EE & ES			
DM	The Offeror's general approach and plans to meet the requirements of the RFP.	Up to 100	100			
KY			95			
SS			100			
SUB TOTAL			295	0	0	0
DM	The Offeror's detailed plans to meet the objectives of each task, activity, etc. on the required schedule.	Up to 200	150			
KY			190			
SS			200			
SUB TOTAL			540	0	0	0
DM	Experience and qualifications of the Offeror and personnel as shown on staff resumes to perform tasks described in Part 3, Scope of Services.	Up to 200	150			
KY			200			
SS			170			
SUB TOTAL			520	0	0	0
DM	Adequacy of proposed project management and resources to be utilized by the Offeror.	Up to 100	100			
KY			100			
SS			100			
SUB TOTAL			300	0	0	0
DM	The Offeror's past performance on projects of similar scope and size.	Up to 100	50			
KY			70			
SS			50			
SUB TOTAL			170	0	0	0
DM	The overall ability of the Offeror, as judged by the evaluation committee, to successfully complete the project within the proposed schedule. This judgment will be based upon factors such as the project management plan and availability of staff and resources.	Up to 200	190			
KY			190			
SS			200			
SUB TOTAL			580	0	0	0
SUB TOTAL TECHNICAL SCORE			2405	0	0	0
DM	Cost Proposal – The costs proposed by the Contractor as described in Section 2.2 of this RFP to perform the tasks listed in Part3, Scope of Services. The evaluation of this section will occur after the technical evaluation, based on a cost/price analysis.	Up to 100	100			
KY			100			
SS			100			
SUB TOTAL			300	0	0	0
SUB TOTAL COMPOSITE SCORE			2705	0	0	0
5% LOCAL BUSINESS PREFERENCE			135.3	0.0	0.0	0.0
5% SMALL BUSINESS PREFERENCE			135.3	0.0	0.0	0.0
TOTAL COMPOSITE SCORE			2975.5	0.0	0.0	0.0

Water Resources Education – River Day Programs, Classroom Presentations and Public Ev
P2012000025

EVALUATOR	EVALUATION CRITERIA	EVALUATION FACTORS	OFFERORS			
			EE & ES			
DM	The Offeror's general approach and plans to meet the requirements of the RFP.	Up to 100	100			
KY			95			
SS			100			
SUB TOTAL			295	0	0	0
DM	The Offeror's detailed plans to meet the objectives of each task, activity, etc. on the required schedule.	Up to 200	150			
KY			190			
SS			200			
SUB TOTAL			540	0	0	0
DM	Experience and qualifications of the Offeror and personnel as shown on staff resumes to perform tasks described in Part 3, Scope of Services.	Up to 200	150			
KY			200			
SS			170			
SUB TOTAL			520	0	0	0
DM	Adequacy of proposed project management and resources to be utilized by the Offeror.	Up to 100	100			
KY			100			
SS			100			
SUB TOTAL			300	0	0	0
DM	The Offeror's past performance on projects of similar scope and size.	Up to 100	50			
KY			70			
SS			50			
SUB TOTAL			170	0	0	0
DM	The overall ability of the Offeror, as judged by the evaluation committee, to successfully complete the project within the proposed schedule. This judgment will be based upon factors such as the project management plan and availability of staff and resources.	Up to 200	190			
KY			190			
SS			200			
SUB TOTAL			580	0	0	0
SUB TOTAL TECHNICAL SCORE			2405	0	0	0
DM	Cost Proposal – The costs proposed by the Contractor as described in Section 2.2 of this RFP to perform the tasks listed in Part3, Scope of Services. The evaluation of this section will occur after the technical evaluation, based on a cost/price analysis.	Up to 100	100			
KY			100			
SS			100			
SUB TOTAL			300	0	0	0
SUB TOTAL COMPOSITE SCORE			Up to 3000	2705	0	0
5% LOCAL BUSINESS PREFERENCE				135.3	0.0	0.0
5% SMALL BUSINESS PREFERENCE				135.3	0.0	0.0
TOTAL COMPOSITE SCORE				2975.5	0.0	0.0

Meeting Date: June 20, 2012
Staff Contact: David Morris, Public Affairs Manager

TITLE: C-12-10 - Recommendation of Award, Media and Public Relations, P2012000023

ACTION: Recommend Approval

SUMMARY:

The Water Authority issued a Request for Proposals (RFP) for Media and Public Relations services earlier this year. The City Purchasing Division issued the subject RFP on behalf of the Water Authority. The RFP was posted on the Sicomm website and advertised in the local newspapers. Four responses were submitted for evaluation. An ad hoc evaluation committee reviewed, evaluated, and scored the response in accordance with the evaluation criteria published in the RFP. The ad hoc evaluation committee selected the top two scoring companies, Cooney-Watson & Associates and Griffin & Associates, to make presentations to the committee. Following the presentations and question-and-answer sessions, the ad hoc evaluation committee rescored the responses of the top two respondents in accordance with the evaluation criteria published in the RFP. Listed below are the composite scores of Griffin & Associates and Cooney-Watson & Associates after the rescoring.

<u>Offeror</u>	<u>Total Composite Score</u>
Griffin & Associates	2805
Cooney-Watson & Associates	2848

The committee recommended the award of contract to Cooney-Watson & Associates as that company had the highest composite score and is qualified to perform the work. The Executive Director concurs with the committee recommendation. The Board, with the approval of the recommendation of Cooney-Watson & Associates, authorizes the Executive Director to enter into contract negotiations with the firm for professional services.

FISCAL IMPACT:

The estimated cost of this contract is approximately \$450,000 annually, with most of this money dedicated to hard costs such as printing and the purchase of air time and advertising space. Funding for this contract is included in the Water Authority's FY 2013 operational budget. Spending in this area has remained steady for the past four years and is necessary to continue educating the community on water conservation and water issues in general.

COMMENTS:

The ad hoc committee recommendation of award and scoring is attached.



Memo

To: Mark Sanchez, Executive Director
From: David Morris, Public Affairs Manager
Date: 6/11/2012
Re: Recommendation of Award, P2012000023, Media and Public Relations

The Albuquerque Bernalillo County Water Utility Authority issued the referenced Request for Proposals (RFP) to solicit proposals from qualified vendors to provide Media and Public Relations.

The RFP was posted on the Sicomm website and advertised in the local newspaper. Four (4) responses were submitted for evaluation. The Ad Hoc evaluation committee reviewed, evaluated, and scored the responses in accordance with the evaluation criteria published in the RFP. The committee selected the top two scoring companies, Griffin and Associates and Cooney, Watson and Associates, for presentations and to provide answers to previously submitted questions. After the presentations, requests for clarification were made to both vendors to address issues that were identified during the demonstrations.

I concur with the committee's recommendation for presentations and questions. Listed are all the respondents' composite scores. The largest total composite score possible is 3,000 points.

<u>Offeror</u>	<u>Total Composite Score</u>
Griffin and Associates	2891.9
Cooney, Watson, and Associates	2803.6
Carroll Strategies	2065.0
DW Turner	2508.0

After completing the presentations, and the question and answer sessions, the ad hoc evaluation committee rescored the responses of the top two respondents in accordance with the evaluation criteria published in the RFP. Listed below are the composite scores of Griffin and Associates and Cooney, Watson, and Associates after the rescoring.

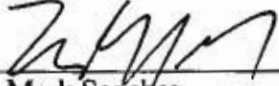
<u>Offeror</u>	<u>Total Composite Score</u>
Griffin and Associates	2805
Cooney, Watson, and Associates	2848

The committee recommended the award of the contract to Cooney, Watson, and Associates as that company had the highest composite score and is qualified to perform the work. I concur with the committee's recommendation.

Water Authority Board approval is required for this procurement. Negotiations with the vendor shall begin immediately upon your approval.

Approved:

Recommended:



Mark Sanchez
Executive Director

6/11/12
Date



David Morris
Public Affairs Manager

6/11/2012
Date

Attachments:

Composite Score Sheet, Final Evaluation

Original:
Copy:
File:

Thomas Courtin, Senior Buyer, ABCWUA, DFAS
Ramona Martinez, Materials Management Officer, COA DFAS
P2012000023

Public and Media Relations

P2012000023

EVALUATOR	EVALUATION CRITERIA	EVALUATION FACTORS	OFFERORS			
			DW Turner	Carroll Strategies	Griffin & Associates	Cooney Watson & Associates
DM	The overall ability of the Offeror, as judged by the evaluation committee, to successfully complete the tasks and functions as outlined in Part 3, Scope of Services. This judgment will be based upon factors such as references, experience, availability of staff and resources, and qualification and experience of staff.	Up to 300	225	200	250	285
KY			260	0	280	260
SS			260	150	270	250
	SUB TOTAL		745	350	800	795
DM	The Offeror's past performance in development and execution of public relations/marketing campaigns. Quality of work and documented outcomes will be considered.	Up to 300	250	225	250	285
KY			280	240	290	260
SS			280	250	270	270
	SUB TOTAL		810	715	810	815
DM	The Offeror's relevant experience with public sector clients and in public outreach and communications in natural resources conservation.	Up to 200	100	100	175	200
KY			100	100	200	200
SS			60	200	200	200
	SUB TOTAL		260	400	575	600
	SUB TOTAL TECHNICAL SCORE		1815	1465	2185	2210
DM	Cost Proposal – The costs proposed by the Contractor as described in Section 2.2 of this RFP to perform the tasks listed in Part3, Scope of Services. The evaluation of this section will occur after the technical evaluation, based on a cost/price analysis.	Up to 200	155	200	148	112.9
KY			155	200	148	112.9
SS			155	200	148	112.9
	SUB TOTAL		465	600	444	338.7
	SUB TOTAL COMPOSITE SCORE	Up to 3000	2280	2065	2629	2549
	5% LOCAL BUSINESS PREFERENCE		114.0	0.0	131.5	127.4
	5% SMALL BUSINESS PREFERENCE		114.0	0.0	131.5	127.4
	TOTAL COMPOSITE SCORE		2508.0	2065.0	2891.9	2803.6

**Public and Media Relations
P2012000023
FINAL EVALUATION**

EVALUATOR	EVALUATION CRITERIA	EVALUATION FACTORS	OFFERORS	
			Griffin	Cooney Watson
	The overall ability of the Offeror, as judged by the evaluation committee, to successfully complete the tasks and functions as outlined in Part 3, Scope of Services. This judgment will be based upon factors such as references, experience, availability of staff and resources, and qualification and experience of staff.	Up to 300		
DM			250	290
KY			280	260
SS			300	250
SUB TOTAL			830	800
	The Offeror's past performance in development and execution of public relations/marketing campaigns. Quality of work and documented outcomes will be considered.	Up to 300		
DM			250	290
KY			270	240
SS			250	200
SUB TOTAL			770	730
	The Offeror's relevant experience with public sector clients and in public outreach and communications in natural resources conservation.	Up to 200		
DM			100	200
KY			150	200
SS			100	200
SUB TOTAL			350	600
SUB TOTAL TECHNICAL SCORE			1950	2130
	Cost Proposal – The costs proposed by the Contractor as described in Section 2.2 of this RFP to perform the tasks listed in Part 3, Scope of Services. The evaluation of this section will occur after the technical evaluation, based on a cost / price analysis.	Up to 200		
DM			200	153
KY			200	153
SS			200	153
SUB TOTAL			600	459
SUB TOTAL COMPOSITE SCORE			Up to 6000	2550
5% LOCAL BUSINESS PREFERENCE			127.5	129.5
5% ADDITIONAL SMALL BUSINESS PREFERENCE			127.5	129.5
TOTAL COMPOSITE SCORE			2805	2848

Meeting Date: June 20, 2012
Staff Contact: Charles W. Kolberg, General Counsel

TITLE: C-12-11 - Recommendation of Award, Legal Services, P2012000030

ACTION: Recommend Approval

SUMMARY:

On behalf of the Water Authority, the City of Albuquerque Purchasing Division, issued a Request for Proposals (RFP) to solicit proposals from qualified law firms to provide a full array of legal services to the Water Authority. The RFP was posted on the City's Sicom website and advertised in the local newspapers. Two (2) responses were submitted for evaluation. An ad hoc evaluation committee reviewed, evaluated, and scored the responses in accordance with the evaluation criteria published in the RFP. Listed below are the respondents' composite scores.

<u>Offeror</u>	<u>Total Composite Score</u>
Stelzner, Winter, Warburton, Flores, Sanchez, and Dawes, P.A.	2,870 of 3,000
Cuddy & McCarthy	2004 of 3,000

The committee recommended the award of the contract to Stelzner, Winter, Warburton, Flores, Sanchez, and Dawes, P.A. as this firm had the highest composite score and is qualified to perform the work. The Executive Director concurs with the committee recommendation. The Board's approval of the recommendation of Stelzner, Winter, Warburton, Flores, Sanchez, and Dawes, P.A. will authorize the Executive Director to enter into contract negotiations with the firm.

FISCAL IMPACT:

Funding for this contract is included in the Water Authority's FY 2013 budget. Actual utilization is dependent upon litigation requirements and other legal related services.



Memo

To: Mark S. Sanchez, Executive Director
From: Charles W. Kolberg, General Counsel *ck*
Date: 6/11/2012
Re: Recommendation of Award, P2012000030

On behalf of the Water Authority, the City of Albuquerque Purchasing Division issued the subject Request for Proposals (RFP) to solicit proposals from qualified vendors to provide Legal Services.

The RFP was posted on the Sicomm website and advertised in the local newspapers. Two (2) responses were submitted for evaluation.

The ad hoc evaluation committee reviewed, evaluated, and scored the responses in accordance with the evaluation criteria published in the RFP.

The committee recommended the award of contract to Stelzner, Winter, Warburton, Flores, Sanchez, and Dawes, P.A. This firm is qualified to provide the services requested.

I concur with the committee's recommendation. Listed is the respondent's composite score.

<u>Offeror</u>	<u>Total Composite Score</u>
Stelzner, Winter, Warburton, Flores, Sanchez, and Dawes, P.A.	2,870 of 3,000
Cuddy & McCarthy	2004 of 3,000

The approval of the Water Authority Governing Board is required for this procurement. Negotiations with the vendor shall begin immediately upon your approval.

Approved:

Recommended:

[Signature] 6/13/12

Mark S. Sanchez, Date
Executive Director

[Signature] 6/13/12

Charles W. Kolberg, Date
General Counsel

Attachment: Composite Score Sheet

Original: Thomas Courtin, Senior Buyer, ABCWUA, DFAS
Copy: Ramona Martinez, Materials Management Officer, DFAS
File: P2012000030

Legal Services

EVALUATOR	EVALUATION CRITERIA	EVALUATION FACTORS	Cuddy	Stelzner
CK	Admitted to practice in the state and federal courts in the State of New Mexico for a minimum of five (5) years.	Up to 100	100	100
SA			100	100
TO			100	90
SUB TOTAL			300	290
CK	Knowledge of and litigation experience in New Mexico with legal issues relevant to the Water Authority's operations including water resource management, municipal utility operation and franchise, labor and employment, contracts, real estate transactions, sale and acquisition of property.	Up to 250	150	200
SA			150	250
TO			200	240
SUB TOTAL			500	690
CK	Experience and qualifications of the Offeror and personnel as shown on staff resumes to perform tasks described in the Scope of Services.	Up to 250	250	250
SA			200	250
TO			200	240
SUB TOTAL			650	740
CK	One or more of the Offeror's personnel being recognized by the New Mexico State Bar Association as an attorney with a specialization in municipal, water or utility law, personnel and labor law, and real estate law.	Up to 200	0	150
SA			0	200
TO			0	200
SUB TOTAL			0	550
SUB TOTAL TECHNICAL SCORE			1450	2270
CK	Contractor as described in Section 2.2 of this RFP to perform the tasks listed in Part 3, Scope of Services. The evaluation of this section will occur after the technical evaluation, based on a cost / price analysis.	Up to 200	184.8	200
SA			184.8	200
TO			184.8	200
SUB TOTAL			554.4	600
SUB TOTAL COMPOSITE SCORE		Up to 3000	2004	2870
5% LOCAL BUSINESS PREFERENCE			0	0
5% SMALL BUSINESS PREFERENCE			0	0
TOTAL COMPOSITE SCORE			2004	2870

Meeting Date: June 20, 2012
Staff Contact: Chris Framel, Chief Information Officer

TITLE: C-12-12 – Approving Agreement with INX, LLC a wholly owned Subsidiary of Presidio Networked Solutions for Network and Hardware Support Services

ACTION: Recommend Approval

SUMMARY:

During Fiscal Year 2012, the Water Authority had a network overview performed on its entire network for both voice and data. The findings showed that improvements were needed in the network infrastructure. These improvements are needed to ensure the network is reliable for the Water Authority's strategic plans regarding software, voice, and video communications.

In order to implement the network improvements, the Water Authority wishes to enter into an agreement with INX, LLC to provide network services. The Water Authority is using an existing State Purchasing Agreement for this contract. The Water Authority will contract with INX until the State Purchasing Agreement expires or is renewed. If the agreement is renewed, the Water Authority is authorized by the Board to renew our agreement if mutually agreed upon by INX and the Water Authority. The initial agreement will terminate on December 31, 2013.

FISCAL IMPACT:

The cost of this agreement is estimated to be \$150,000 annually. The Water Authority has budgeted the capital and operating resources to cover this agreement. The expense will be revenue neutral since the Water Authority will not be contracting with the City for such services in the future.

COMMENTS:

As a result of the Water Authority's reliance on all types of electronic media used for data gathering, transmission and usage as well as voice and video communications, it is imperative that the resources linking this media, the network, be fully operational and properly maintained to insure that there is no or limited interruption of network services. Having a contract in place to insure rapid response to network issues and problems is essential. In addition, with the implementation of the new ERP system, schedule to begin in July, all data processing will be cloud based, hosted by the vendor, and accessed over the network.

**AGREEMENT
BETWEEN THE
ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY
AND
INX, LLC**

THIS AGREEMENT is made and entered into on the date of the last signature entered below by and between the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, P.O. Box 568, Albuquerque, New Mexico 87103-0568 (hereinafter referred to as the "Water Authority") and INX, LLC, a wholly-owned subsidiary of Presidio Networked Solutions, Inc., a Maryland Corporation, 1720 Louisiana Blvd. NE #301, Albuquerque, NM 87110 (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, the Water Authority requires network and hardware support services; and

WHEREAS, the Contractor has in-depth knowledge of the Water Authority's network infrastructure and industry best practices; and

WHEREAS, the Contractor was competitively selected and awarded a contract through the State of New Mexico's General Services Department procurement process after notice and publication and in accordance with the requirements of the procurement laws and regulations applicable to that public agency; and

WHEREAS, the Water Authority desires to engage the services of the Contractor based upon their selection and award by the State of New Mexico under Statewide Price Agreement No. 90-000-00-01008BF, Title: Data Wide/Local Area Network Systems Equipment & Services, which is attached hereto and incorporated herein as part of this Agreement; and

WHEREAS, the Contractor is able to provide such services at a cost and in a timeframe in accordance with Water Authority goals and objectives.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. **Scope of Services:** The Contractor shall perform the following services (hereinafter referred to as the "Services") in a satisfactory and proper manner, as determined by the Water Authority:

Provide hardware and support services as described in the attached Statewide Price Agreement No. 90-000-00-01008BF, Title: Data Wide/Local Area Network, which is attached hereto and incorporated herein as part of this Agreement.

2. **Time of Performance:** Services of the Contractor shall commence upon the date of the last signature entered below, and shall be undertaken and completed in such sequence as

to assure their expeditious completion in light of the purposes of this Agreement; provided, however, that in any event, all of the Services required hereunder shall be completed by December 31, 2013. This Agreement may be extended upon written agreement of the parties in accordance with and conditioned upon extension of the Statewide Price Agreement No. 90-000-00-01008BF.

3. **Compensation and Method of Payment:**

A. **Compensation.** For performing the Services specified in Section 1 hereof, the Water Authority agrees to pay the Contractor up to the amount of **Five Hundred Thousand and 00/100 Dollars (\$500,000.00)**, which amount includes any applicable gross receipts taxes and which amount shall constitute full and complete compensation for the Contractor's Services under this Agreement, including all expenditures made and expenses incurred by the Contractor in performing such Services.

B. **Method of Payment for Services.** Payment for Services shall be made at the rates set forth in the rate schedules attached as Attachment A of the Statewide Price Agreement No. 90-000-00-01008BF and incorporated herein. Payments shall be made to the Contractor upon completion and acceptance of agreed upon milestones. Payments shall be made upon receipt by the Water Authority of properly documented requisitions for payment as determined by the budgetary and fiscal guidelines of the Water Authority and on the condition that the Contractor has accomplished the Services to the satisfaction of the Water Authority.

C. **Appropriations.** Notwithstanding any other provisions in this Agreement, the terms of this Agreement are contingent upon the Water Authority Board making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Water Authority Board, this Agreement may be terminated at the end of the Water Authority's then current fiscal year upon written notice given by the Water Authority to the Contractor. Such event shall not constitute an event of default. All payment obligations of the Water Authority and all of its interest in this Agreement will cease upon the date of termination. The Water Authority's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

4. **Independent Contractor:** Neither the Contractor nor its employees are considered to be employees of the Water Authority for any purpose whatsoever. The Contractor is considered as an independent contractor at all times in the performance of the Services described in Section 1. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the Water Authority under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the Water Authority under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

5. **Personnel:**

- A. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the Water Authority.
- B. All the Services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.
- C. None of the work or Services covered by this Agreement shall be subcontracted without the prior written approval of the Water Authority. Any work or Services subcontracted hereunder shall be specified by written contract or Agreement and shall be subject to each provision of the Agreement.

6. **Indemnity:** The Contractor agrees to defend, indemnify and hold harmless the Water Authority and its officials, agents and employees from and against any and all claims, actions, suits or proceeding of any kind brought against said parties for or on account of any matter arising out of or resulting from the Services performed by the Contractor under this Agreement. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

7. **Insurance:** The Contractor shall procure and maintain at its expense until final payment by the Water Authority for services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations under this Agreement, whether performed by it or its agents. Before commencing the Services and on the renewal of all coverages, the Contractor shall furnish the Water Authority a certificate or certificates in form satisfactory to the Water Authority showing that it has complied with this Section. All certificates of insurance shall provide that thirty (30) days written notice be given to the Risk Manager, Department of Finance and Administrative Services, City of Albuquerque, P.O. Box 470, Albuquerque, New Mexico, 87103, before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. With respect to all coverages required other than workers' compensation, the Water Authority shall be named an additional insured. All coverages afforded shall be primary with respect to operations provided. Kinds and amounts of insurance required are as follows:

A. **Commercial General Liability Insurance.** A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$1,000,000	Per Occurrence
\$1,000,000	Policy Aggregate
\$1,000,000	Products Liability/Completed Operations

\$1,000,000	Personal and Advertising Injury
\$ 50,000	Fire - Legal
\$ 5,000	Medical Payments

Said policy of insurance must include coverage for all operations performed for the Authority by the Contractor and contractual liability coverage shall specifically insure the hold harmless provisions of this Agreement.

- B. **Automobile Liability Insurance.** An automobile liability insurance policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. Said policy of insurance must include coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work.
 - C. **Workers' Compensation Insurance.** Workers' compensation insurance for its employees in accordance with the provisions of the Workers' Compensation Act of the State of New Mexico.
 - D. **Increased Limits.** If, during the term of this Agreement, the Water Authority requires the Contractor to increase maximum limits of any insurance required herein, an appropriate adjustment in the Contractor's compensation will be made.
8. **Discrimination Prohibited:** In performing the Services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, physical handicap, or disability as defined in the Americans With Disabilities Act of 1990, as now enacted or hereafter amended.
 9. **ADA Compliance:** In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the Americans With Disabilities Act of 1990, and all applicable rules and regulations (the "ADA"), which are imposed directly on the Contractor or which would be imposed on the Water Authority as a public entity. The Contractor agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the Water Authority, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of the Contractor or its agents in violation of the ADA.
 10. **Reports and Information:** At such times and in such forms as the Water Authority may require, there shall be furnished to the Water Authority such statements, records, reports, data and information, as the Water Authority may request pertaining to matters covered by this Agreement. Unless authorized by the Water Authority, the Contractor will not release any information concerning the work product including any reports or other documents prepared pursuant to this Agreement until the final product is submitted to the Water Authority.

11. **Establishment and Maintenance of Records:** Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the Water Authority with respect to all matters covered by this Agreement. Except as otherwise authorized by the Water Authority, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.
12. **Audits and Inspections:** At any time during normal business hours and as often as the Water Authority may deem necessary, there shall be made available to the Water Authority for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the Water Authority to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.
13. **Conflict of Interest; Governmental Conduct Act:** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a current or former "public officer or employee" have been followed.
14. **Publication, Reproduction and Use of Material:** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The Water Authority shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.
15. **Compliance with Laws:** In performing the Services required herein, the Contractor shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments.
16. **Changes:** The Water Authority may, from time to time, request changes in the Services 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 Water Authority and the Contractor, shall be incorporated in written amendments to this Agreement.
17. **Assignability:** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the Water Authority therein.
18. **Termination for Cause:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the Water Authority shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof at

least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs, and reports prepared by the Contractor under this Agreement shall, at the option of the Water Authority, become its property. The Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Water Authority for damages sustained by the Water Authority by virtue of any breach of this Agreement by the Contractor, and the Water Authority may withhold any payments to the Contractor for the purposes of set-off until such time as the exact amount of damages due the Water Authority from the Contractor is determined.

19. **Termination for Convenience of Water Authority:** The Water Authority may terminate this Agreement at any time without cause and for the convenience of the Water Authority by giving at least ten (10) days' notice in writing to the Contractor. If the Contractor is terminated by the Water Authority as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the Services actually performed bear to the total Services of the Contractor covered by this Agreement, less payments of compensation previously made. If this Agreement is terminated due to the fault of the Contractor, the preceding Section hereof relative to termination shall apply.
20. **Construction and Severability:** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
21. **Enforcement:** The Contractor agrees to pay to the Water Authority all costs and expenses including reasonable attorney's fees incurred by the Water Authority in exercising any of its rights or remedies in connection with the enforcement of this Agreement.
22. **Entire Agreement:** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.
23. **Applicable Law:** This Agreement shall be governed by the construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the Albuquerque Bernalillo County Water Utility Authority.
24. **Notice:** All notices, requests, demands and other communications given under this Agreement will be in writing, and, unless otherwise specified in this Agreement, will be deemed to have been given if delivered in person, or on receipt, if mailed by certified or registered mail, postage pre-paid, and addressed to the Water Authority or to the Contractor at the following addresses, unless either party changes the address by giving written notice of the change to the other. The addresses for notices are:

Notice to Contractor: INX, LLC
1720 Louisiana Blvd. NE #301
Albuquerque, NM 87110

Notice to the Water Authority: Mark S. Sanchez, Executive Director
Albuquerque Bernalillo County Water Utility Authority
One Civic Plaza NW, Room 5012
Albuquerque, NM 87102

25. **Approval Required:** This Agreement shall not become effective or binding until approved by the Water Authority's Executive Director.

IN WITNESS WHEREOF, the Water Authority and the Contractor have executed this Agreement on the date of the last signature entered below.

**ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY**

**CONTRACTOR: INX, LLC, a wholly-
owned subsidiary of Presidio Networked
Solutions, Inc.**

Approved By:

Mark S. Sanchez, Executive Director

Date: _____

Reviewed by:

Charles W. Kolberg, General Counsel

Date: _____

By: _____

Print: _____

Title: _____

Date: _____

State Taxation and Revenue Department
Taxpayer Identification No.:
03-045509-00-0

Federal Taxpayer Identification No.
76-0515249



State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
0000044764
INX, Inc.
1720 Louisiana Blvd. NE #301
Albuquerque, NM 87110


Telephone No. 505-256-9047

Price Agreement Number: 90-000-00-01008BF

Price Agreement Amendment No.: Five

Term: December 28, 2008 - December 10, 2012

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public bodies
allowed by law.

Procurement Specialist: Gerrie Becker 

Telephone No.: (505) 476-3121

Invoice:

As Requested

Title: Data Wide/Local Area Network

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from December 11, 2011 to December 10, 2012 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico



New Mexico State Purchasing Agent

Date: 11/9/11

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472





State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
0000044764
INX Inc.
1720 Louisiana Blvd. NE, #301
Albuquerque, New Mexico 87110


Telephone No. (505) 256-9047

Price Agreement Number: 90-000-00-01008BF

Price Agreement Amendment No.: Four

Term: December 28, 2008 – December 10, 2011

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public bodies
allowed by law.

Procurement Specialist: Rick Muniz 

Telephone No.: (505) 827-0521

Invoice:

As Requested

Title: Data Wide/Local Area Network

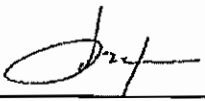
This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof. This amendment is issued to reflect the following effective immediately:

This amendment shall hereby incorporate Article 27A as required to meet BTOP Federal Grant Reporting requirements (see attached).

The above vendor has accepted the additional Terms and Conditions and is authorized to accept Purchase Orders utilizing BTOP funds.

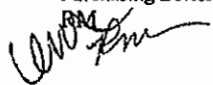
Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico



New Mexico State Purchasing Agent

Date: 10/07/11



ARTICLE 27A – ADDITIONAL PROVISIONS PART 1

1. Reporting Requirements.

A. If any part of this Agreement is funded pursuant to the American Recovery and Reinvestment Act ("ARRA"), Contractor agrees to abide by the reporting requirements of that Act, as amended. Receipt of funds pursuant to ARRA is expressly contingent upon Contractor's agreement that it will fully comply with the reporting requirements specified by the Act. These reporting requirements shall include, but not necessarily be limited to, the following, as applicable:

- a) Contractor shall report information required by the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282), as that law may be amended or renumbered.
 - a. The name of the entity receiving the award.
 - b. The amount of the award.
 - c. Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source, and an award title descriptive of the purpose of each funding action.
 - d. The location of the entity receiving the award and the primary location of the performance under the award, including the city, State, congressional district, and country.
 - e. A unique identifier of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity.
 - f. Any other relevant information specified by the Office of Management and Budget.
- b) Contractor will acquire or update their DUNS number and register with the Central Contractor Registration, if applicable.
- c) Contractor shall report information responsive to ARRA Section 1512 as identified in that Section, and as that Section may be amended or renumbered, and in Federal Office of Management and Budget ("OMB") memoranda and supplements addressing Section 1512 reporting, as amended or renumbered. Reported information will include:
 - a) Data elements specific to vendor reporting.
 - i. Award Number – Prime Recipient Vendor
 - ii. Subaward Number – Sub-recipient Vendor
 - iii. Vendor DUNS Number
 - iv. Vendor HQ Zip Code + 4
 - v. Vendor Name
 - vi. Product and Service Description
 - vii. Payment Amount
 - b) Data elements for which the prime recipient or sub-recipient is responsible, but which are

generated by the vendor, including, but not limited to: project status, jobs creation, and number of jobs.

- c) Data on number of jobs will comply with OMB Memorandum M-09-21 description of a mathematical formula to calculate Full Time Equivalence (FTE) for jobs created and retained, at page 35, and as that memorandum may be amended, supplemented, or replaced by OMB.
- d) If applicable, pursuant to ARRA Division B, Title VII, or pursuant to OMB Guidelines, memoranda or other directives, Contractor will report the names and compensation of the five most highly compensated officers of the Contractor.
 - d) Contractor shall report any other information specified by the funding federal agency for ARRA-funded projects in addition to the reporting requirements specified in Section 1512 and OMB Memoranda.
 - e) At the direction of the Agency, Contractor will use any automated data system identified by Agency to report ARRA funds, jobs created or retained, or any other ARRA-mandated reporting requirements.
 - f) Contractor will meet all reporting deadlines established by the Agency to ensure compliance with ARRA-mandated reporting deadlines as well as any deadlines specified by the Agency for the reporting of data that the Agency requires in order to comply with Agency's ARRA reporting requirements.
 - g) In the event that additional data reporting is imposed on the Agency by federal law or by an appropriate federal agency subsequent to the execution of this Agreement, Contractor agrees to fully comply with any and all additional reporting requirements as directed by the Agency.

B. Contractor shall also be fully responsible for complying with any reporting requirements which apply to any subcontracts awarded pursuant to this Agreement and in accordance with Section 8 of this Agreement regarding subcontracting, such reporting to comply with ARRA and/or the Federal Funding Accountability and Transparency Act (P.L. 109-282), as those laws may be amended or renumbered. Contractor shall be responsible for ensuring that all required subcontractor reporting is completed in a timely and accurate manner.

- 1) The data elements required for compliance shall include, but not necessarily be limited to, the following, as applicable:
 - a. Specific data elements identified by OMB for vendor reporting.
 - b. Any other information specified by OMB or the funding federal agency, if applicable.
 - c. The number of jobs created and retained by the project or activity, with a narrative description of the types of jobs. Data on number of jobs will comply with OMB M-09-21 description of a mathematical formula to calculate Full Time Equivalence (FTE), as that memorandum may be amended or supplemented by OMB.
- 2) At the direction of the Agency, subcontractor will use any automated data system identified by the Agency to track ARRA funds, jobs created or retained, or any other ARRA mandated reporting requirements.
- 3) ARRA Funds may be used in conjunction with other funds to perform the Scope of Work under this Agreement, but tracking and reporting must be done separately to meet the reporting requirements of ARRA and the OMB Guidance.
- 4) Contractor agrees that it will include in any subcontract agreement subject to these

requirements, an affirmative obligation upon any subcontractor to collect, maintain and timely provide any and all information subject to the reporting requirements specified herein and a specific authorization for the release of this information directly to the Agency upon the Agency's request.

2. Additional Audit Requirements.

A. If any part of this Agreement is funded pursuant to the ARRA, Contractor agrees to abide by the following:

- 1) Allow access by any appropriate Federal entity, including an inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) to examine any records of the Contractor and any subcontractor pursuant to this original Agreement that pertain to, and involve transactions relating to, this Agreement or any subcontract pursuant to this Agreement; and
- 2) To allow any appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 to interview any officer or employee of the Contractor or any subcontractor pursuant to this original Agreement regarding such transactions.
- 3) Nothing in this Section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

B. If any part of this Agreement is funded pursuant to the ARRA, Contractor agrees to abide by the following:

- 1) Allow access by the Government Accountability Office Comptroller General and his representatives to examine any records of the Contractor or any of Contractor's subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- 2) Allow the Comptroller General and his representatives to interview any officer or employee of the Contractor or any of Contractor's subcontractors, or of any State or local government agency administering the contract, regarding such transactions.
- 3) Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

C. If any part of this Agreement is funded pursuant to ARRA, Contractor agrees to maintain documentation and records that support all information submitted to the Agency for Federal Reporting purposes.

D. Contractor agrees that it will include in any subcontract agreement an affirmative obligation upon any subcontractor to comply with and submit to all of the additional audit requirements specified herein.

3. Additional ARRA Requirements.

A. The Agency and Contractor hereby acknowledge that any funding provided pursuant to ARRA is one-time funding which shall be limited to the specific purposes and

deliverables specified herein.

B. Whistleblower Protections of Employees Under ARRA

- 1) Contractor will comply with Section 1553 of the ARRA regarding Whistleblower protections, as that section may be amended or renumbered.
- 2) Any employer, including Contractor, receiving funds pursuant to ARRA shall post notice of the rights and remedies provided under this section. The notice of rights shall be the same as or equivalent to the example notice set forth in Attachment 2.
- 3) Contractor agrees that it will include in any subcontract agreement an affirmative obligation upon any subcontractor to comply with the whistleblower protection provisions specified herein.

C. Buy American Provisions

- 1) If applicable, Contractor will comply with Division A, Section 1605 of ARRA regarding Buy American Provisions, regarding use of American iron, steel, and manufactured goods, as that section may be amended or renumbered.
- 2) If applicable, Contractor is responsible for advising any subcontractor of this requirement.
- 3) In accordance with Section 1605 of the Recovery Act, the Secretary of Commerce has granted a limited waiver of the Recovery Act's Buy American requirements with respect to certain broadband equipment that will be used in projects funded under the BTOP to include the following:
 - Broadband Switching Equipment – equipment necessary to establish a broadband communications path between two points.
 - Broadband Routing Equipment – equipment that routes data packets throughout a broadband network
 - Broadband Transport Equipment – equipment for providing interconnection within the broadband provider's network
 - Broadband Access Equipment – equipment facilitating the last mile connection to a broadband subscriber.
 - Broadband Customer Premises Equipment and End-User Devices – end-user equipment that connects to a broadband network.
 - Billing/Operations Systems – equipment that is used to manage and operate a broadband network or offer a broadband service.

This waiver does not include fiber optic cables, coaxial cables, cell towers, and other facilities that are produced in the United States in sufficient quantities to be reasonably available as end products. The Contractor will be responsible for ensuring that the goods proposed are in conformance with the above referenced law. The responsibility extends to informing all affected subcontractors and material suppliers of these specific requirements and to ensure that the goods being proposed and/or supplied are in conformance with the standard specification.

D. Wage Rate Requirements

- 1) If applicable, Contractor will comply with Division A, Section 1606 of ARRA regarding wage rate requirements, as that section may be amended or renumbered.
- 2) If applicable, Contractor will comply with Division B, Section 1601 of ARRA regarding application of certain labor standards to projects financed with certain tax-favored bonds.
- 3) If applicable, Contractor is responsible for advising any subcontractor of this requirement.

4. **Mandatory Waste, Fraud or Abuse Reporting.**

If any part of this Agreement is funded pursuant to the American Recovery and Reinvestment Act ("ARRA"), Contractor shall:

A. Promptly refer to an appropriate inspector general any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving such ARRA funds.

B. Promptly report to the Agency and NMORR any credible evidence that a principal, employee, agent, contractor, subcontractor, or other person has committed fraud, waste, or abuse of ARRA funds.

C. Contractor agrees that it will include in any subcontract agreement an affirmative obligation upon any subcontractor to comply with the mandatory waste, fraud or abuse reporting requirements specified herein.

5. **Non-Compliance With ARRA Reporting Requirements.**

Failure of Contractor or any subcontractor to Contractor to comply with the reporting requirements, through material omission, knowingly reporting false data, or failure to comply with reporting deadlines, may result in withholding of payment and/or termination of this Agreement.

6. **Cited Documents.**

Cited documents may be viewed in their entirety at United States Government websites, and it is Contractor's responsibility to fully understand Contractor's duties and responsibilities for reporting and disclosure requirements when receiving ARRA funds pursuant to this or any other agreement under which ARRA funds are disbursed.

American Recovery and Reinvestment Act of 2009	http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bill&docid=f:h1enr.pdf
Federal Funding Accountability and Transparency Act	http://frwebgate.access.gpo.gov/cgi-

of 2006 (P.L. 109-282)	bin/getdoc.cgi?dbname=109_cong_bills&docid=f:s2590enr.txt.pdf
OMB Guidance and Circulars	http://www.whitehouse.gov/omb/
Federal Regulations	http://www.gpoaccess.gov/cfr/index.html
United States Code	http://uscode.house.gov/

7. Debarment And Suspension And Other Responsibility Matters.

- A. Contractor certifies by signing this Agreement, that Contractor and Contractor's principals, if applicable, to the best of Contractor's knowledge and belief: (1) are not debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal department or agency; (2) have not, within a three-year period preceding the effective date of this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; (3) have not been indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state or local) with commission of any of the offenses enumerated above in this Paragraph; and, (4) have not, within a three-year period preceding the effective date of this Agreement, had one or more public Agreements or transactions (Federal, State or local) terminated for cause or default. If applicable, Contractor certifies that it and its principals have not been excluded from participation from Medicare, Medicaid or other federal health care programs pursuant to Title XI of the Social Security Act, 42 U.S.C. § 1320a.
- B. Contractor's certification in Paragraph A is a material representation of fact upon which the Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's certification in Paragraph A was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's certification in Paragraph A was erroneous on the effective date of this Agreement or has become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Agency, the Agency may terminate the Agreement.
- C. Contractor shall require each proposed first-tier sub-Contractor whose subcontract will equal or exceed \$25,000, to disclose to the Agency whether as of the time of award of the subcontract, the sub-Contractor, or its principals, is or is not debarred, suspended, or proposed for debarment by any Federal department or agency. Contractor shall make such disclosures available to the Agency. If the sub-

Contractor, or its principals, is debarred, suspended, or proposed for debarment by any Federal department or agency, the Agency may refuse to approve the use of the sub-Contractor.

All other articles of the original contract remain the same.



State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
0000044764
INX Inc.
1720 Louisiana Blvd. NE #301
Albuquerque, NM 87110


Telephone No. (505) 256-9047

Price Agreement Number: 90-000-00-01008BF

Price Agreement Amendment No.: Three

Term: December 28, 2008 – December 10, 2011

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public bodies
allowed by law.

Procurement Specialist: Gerrie Becker 

Telephone No.: (505) 476-3121

Invoice:
As Requested

Title: Data Wide/Local Area Network

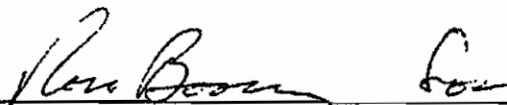
This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

This amendment is issued to reflect the following effective immediately.

Please see updated ESS schedule.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico



New Mexico State Purchasing Agent

Date: 03/18/11

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

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STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT
PURCHASING DIVISION

GSD/PD 003-D2 (Rev. 01/09)

Awarded Vendor
0000044764
INX Inc.
1720 Louisiana Blvd, NE #301
Albuquerque, NM 87110

Telephone No. (505) 256-9047

**Price Agreement
Amendment**

Price Agreement Number: 90-000-00-01008BF
Price Agreement Amendment No.: Two
Term: December 28, 2008-December 10, 2010

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public bodies
allowed by law.

Invoice:

As requested

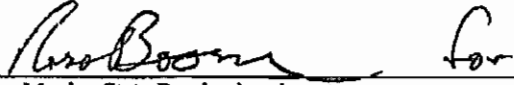
Procurement Specialist: Gerrie Becker
Telephone No.: (505) 476-3121

Commodity: Data Wide/Local Area Network

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from December 11, 2010 to December 10, 2011 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 11/22/2010

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

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STATE OF NEW MEXICO
GENERAL SERVICES DEPARTMENT
PURCHASING DIVISION

GSD/PD 003-D2 (Rev. 01/09)

Awarded Vendor
(0000044764)
INX Inc.
1720 Louisiana Blvd NE #301
Albuquerque, NM 87110

Telephone No. (505) 256-9047

**Price Agreement
Amendment**

Price Agreement Number: 90-000-00-01008BF

Price Agreement Amendment No.: One

Term: December 28, 2008 - December 10, 2009

Ship To:
All State of New Mexico Agencies, Commissions,
Institutions, Political Sub-Divisions and Local Public
Bodies allowed by Law.

Invoice: As requested

Procurement Specialist: Gerrie Becker 

Telephone No.: (505) 476-3121

Commodity: Data Wide/Local Area Network

~~This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.~~

In accordance with Contract provisions, and by mutual agreement of all parties, this Price Agreement is extended from December 11, 2009 to December 10, 2010 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico


New Mexico State Purchasing Agent

Date: 11/25/09

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

AB



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STATE OF NEW MEXICO
STATEWIDE PRICE AGREEMENT

DATA WIDE/LOCAL AREA NETWORK SYSTEMS
EQUIPMENT & SERVICES
Manufacturer: Cisco

PRICE AGREEMENT NUMBER: 90-000-00-01008BF

THIS PRICE AGREEMENT is made and entered into by and between the State of New Mexico, State Purchasing Division, and Department of Information Technology, hereinafter referred to as the "Procuring Agency" and INX Inc., hereinafter referred to as the "Contractor" and collectively referred to as the "Parties.

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.*; and Procurement Code Regulations, NMAC 1.4.1 *et. seq.*; the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of this Agreement, the Contractor's proposal including any best and final offers, and the RFP are hereby incorporated by reference in this contract. In case of any conflict with the reference documents, the order of precedence shall be this Agreement, the Contractor's proposal including any best and final offers, then the RFP.

NOW, THEREFORE, IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

ARTICLE 1 - DEFINITIONS

- A. "Acceptance" shall mean the approval, after Quality Assurance, of all Deliverables by an executive level representative ("Executive Level Representative") of the Procuring Agency.
- B. "Change Request" shall mean the document utilized to request changes or revisions in the Scope of Work.
- C. "Chief Information Officer ("CIO")" shall mean the Secretary/CIO of the Department of Information Technology for the State of New Mexico or designated representative.
- D. "Deliverable" shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.
- E. "DoIT" shall mean the Department of Information Technology.
- E. "DFA" shall mean the Department of Finance and Administration; "DFA/CRB" shall mean the Department of Finance and Administration, Contracts Review Bureau.
- F. "Escrow" shall mean a legal document (such as the software source code) delivered by the contractor into the hands of a third party, to be held by that party until the performance of a condition is accepted; in the event contractor fails to perform, the grantee agency receives the legal document, in this case, source code.
- G. "Enhancement" means any modification or addition that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an Error Correction; After conferring with Procuring Agency, an Enhancement may be identified as minor or major
- H. "Executive Level Representative" shall mean the individual empowered with the authority to represent and make decisions on behalf of the Procuring Agency's executives.
- I. "Know How" shall mean all technical information, data and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals,

records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.

J. "Intellectual Property" shall mean any and all proprietary information developed pursuant to the terms of this Agreement.

K. "Independent Verification and Validation ("IV&V")" shall mean the process of evaluating a project and the project's product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Procuring Agency.

L. "Payment Invoice" shall mean a detailed, certified and written request for payment of services rendered from the Contractor to the Procuring Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the invoice is submitted.

M. "Performance Bond" shall mean a surety bond which guarantees that the contractor will fully perform the contract and guarantees against breach of contract.

N. "Project" shall mean a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project approval is given by the Executive Level Representative and verified by the agency CIO to the DoIT.

O. "Project Manager" shall mean a qualified person from the Procuring Agency responsible for all aspects of the Project or the administration of this Agreement.

P. "Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.

Q. "State Purchasing Agent (SPA)" - shall mean the State Purchasing Agent for the State of New Mexico or designated representative.

R. "State Purchasing Division (SPD)" - shall mean the State Purchasing Division of the General Services Department for the State of New Mexico

ARTICLE 2 – SCOPE OF WORK

A. The scope of work shall be for Data Wide/Local Area Network Systems Equipment & Services to interface with current and future telecommunications systems for the Department of Information Technology. The scope also includes cost effective telecommunication systems that would be advantageous to the State of New Mexico in meeting the future challenges. This includes products and services that must be compatible with current Data Wide/Local Area Network Systems Equipment, user training, and installation.

The Price Agreement(s) resulting from this procurement for Data Wide/Local Area Network Systems Equipment & Services may be used statewide by the executive, judicial and legislative branches of government as well as local governments and public educational entities.

B. **Performance Measures.** Contractor shall substantially perform the Performance Measures set forth in Attachment A. In the event the Contractor fails to obtain the results described in Attachment A, the Procuring Agency may provide written notice to the Contractor of the default and specify a reasonable period of time in which the Contractor shall advise the Procuring Agency of specific steps it will take to achieve these results and the proposed timetable for implementation. Nothing in this Section shall be construed to prevent the Procuring Agency from exercising its rights pursuant to Article 6.

D. License. Contractor hereby grants Procuring Agency a non-exclusive, irrevocable, perpetual license to use, modify, and copy the software as defined in Article 2 and Attachment A.

The right to copy the software is limited to the following purposes: archival, backup and training. All archival and backup copies of the software are subject to the provisions of this Agreement, and all titles, patent numbers, trademarks, copyright and other restricted rights notices shall be reproduced on any such copies.

1) Contractor agrees to maintain, at contractor's own expense, a copy of the software source code to be kept by an escrow agent and to list the Procuring Agency as an authorized recipient of this source code. The source code shall be in magnetic form on media specified by the Procuring Agency. The escrow agent shall be responsible for storage and safekeeping of the magnetic media. Contractor shall replace the magnetic media no less frequently than every six (6) months to ensure readability and to preserve the software at the current revision level. Included with the media shall be all associated documentation which will allow the Procuring Agency to top load, compile and maintain the software in the event of a breach.

2) If the Contractor ceases to do business or ceases to support this Project or Agreement and it does not make adequate provision for continued support of the licensed software it provided the Agency; or, if this Agreement is terminated, or if the Contractor breaches this Agreement, the Contractor shall make available to the Procuring Agency: 1) the latest available licensed software program source code and related documentation meant for the licensed software provided or developed under this Agreement by the Contractor and listed as part of the purchase system; 2) the source code and compiler/utilities necessary to maintain the system; and, 3) related documentation for software developed by third parties to the extent that the Contractor is authorized to disclose such software. In such circumstances, Procuring Agency shall have an unlimited right to use, modify and copy the source code and documentation.

ARTICLE 3 - COMPENSATION

A. Compensation Schedule. The Procuring Agency shall pay to the Contractor based upon fixed prices for the Deliverables, per the schedule outlined in Attachment A.

B. Payment. Contractor hereby agrees to perform work at or below the published maximum rates of the price agreement as indicated in Attachment A.

Payment shall be made upon Acceptance of each Deliverable and upon the receipt and acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, 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 Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date **WILL NOT BE PAID.**

C. Taxes. The Contractor shall not be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, nor interest or penalties assessed on the

Contractor by any authority. 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 Procuring Agency 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.

D. Retainage. The Procuring Agency may retain twenty percent (20%) of the fixed-price Deliverable cost for each Deliverable that is the subject of this Agreement as security for full performance under the terms of this Agreement. All amounts retained shall be released to the Contractor upon Acceptance of the final Deliverable.

E. Performance Bond. Not Applicable

ARTICLE 4 – ACCEPTANCE

A. Submission. Upon completion of agreed upon Deliverables as set forth in Article 2 and Attachment A, Contractor shall submit a Payment Invoice with the Deliverable, or description of the Deliverable, to the Project Manager.

B. Acceptance. In accord with Section 13-1-158 NMSA 1978, the Executive Level Representative shall determine if the Deliverable provided meets specifications. No payment shall be made for any Deliverable until the individual Deliverable that is the subject of the Payment Invoice has been Accepted, in writing, by the Executive Level Representative. In order to Accept the Deliverable, the Executive Level Representative, in conjunction with the Project Manager, will assess the Quality Assurance level of the Deliverable and determine, at a minimum, that the Deliverable:

- 1.) Complies with the Deliverable requirements as defined in Article 2 and Attachment A
- 2.) Complies with the terms and conditions of the RFP;
- 3.) Meet the performance measures for the Deliverable(s) and this Agreement;
- 4.) Meets or exceeds the generally accepted industry standards and procedures for the Deliverable(s); and
- 5.) Complies with all the requirements of this Agreement.

If the Deliverable is deemed Acceptable under Quality Assurance by the Executive Level Representative or designee, the Executive Level Representative will notify the Contractor of Acceptance, in writing, within thirty (30) business days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice.

C. Rejection. Unless the Executive Level Representative gives notice of rejection within the thirty (30) day business day Acceptance period, the Deliverable will be deemed to have been accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (30) days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt

of comments, the Contractor will have fifteen (15) business days to resubmit the Deliverable to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed. The Executive Level Representative will again determine whether the Deliverable(s) is Acceptable under Quality Assurance and provide a written determination within thirty (30) business days of receipt of the revised or amended Deliverable. If the Deliverable is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity. In the event that a Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed as in breach of this Agreement. The Procuring Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Procuring Agency may terminate this Agreement.

ARTICLE 5 – TERM

THIS AGREEMENT SHALL NEITHER BE EFFECTIVE NOR BINDING UNTIL APPROVED BY THE DoIT AND SPD. This Agreement shall terminate on December 10, 2009 unless terminated pursuant to Article 6. No contract term, including extensions and renewals, shall exceed five years, except as set forth in Section 13-1-150 NMSA 1978.

The initial term of the Price Agreement(s) shall be for one calendar year. After the first year, the DoIT in cooperation with the SPA reserves the option of renewing any of the initial price agreement(s) on an annual basis for up to four (4) additional one-year terms. In no case will the price agreement(s), including all renewals thereof, exceed a total of five (5) years in duration. The proposed prices shall not increase for the first year and will only be adjusted by mutual agreement thereafter.

ARTICLE 6 – TERMINATION

This Agreement may be terminated as follows:

A. **General.** By the either Party upon written notice to be delivered to the other party not less than ten (10) business days prior to the intended date of termination.

B. **Appropriations.** By the Procuring Agency, if required by changes in State or federal law, or because of court order, or because of insufficient appropriations made available by the United States Congress and/or the New Mexico State Legislature for the performance of this Agreement. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency terminates this Agreement pursuant to this subsection, the Procuring Agency shall provide the Contractor written notice of such termination at least fifteen (15) business days prior to the effective date of the termination.

C. **Obligations and Waiver.** By termination pursuant to this Article, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. **THIS ARTICLE IS NOT EXCLUSIVE AND DOES NOT CONSTITUTE A WAIVER OF ANY OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE PROCURING AGENCY AND THE STATE OF NEW MEXICO**

CAUSED BY THE CONTRACTOR'S DEFAULT OR BREACH OF THIS AGREEMENT.

ARTICLE 7 – TERMINATION MANAGEMENT

A. Contractor. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:

- 1.) Transfer, deliver, and/or make readily available to the Procuring Agency property in which the Procuring Agency has a financial interest and any and all data, Know How, Intellectual Property, inventions or property of the Procuring Agency.
- 2.) Incur no further financial obligations for materials, services, or facilities under the Agreement without prior written approval of the Procuring Agency;
- 3.) Terminate all purchase orders or procurements and any subcontractors and cease all work,, except as the Procuring Agency may direct, for orderly completion and transition;
- 4.) Take such action as the Procuring Agency may direct, for the protection and preservation of all property and all records related to and required by this Agreement;
- 5.) Agree that the Procuring Agency is not liable for any costs arising out of termination and that the Procuring Agency is liable only for costs of Deliverables Accepted prior to the termination of the Agreement;
- 6.) Cooperate fully in the closeout or transition of any activities to permit continuity in the administration of Procuring Agency programs;
- 7.) In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the Procuring Agency's receipt of program funds from any governmental agency, the Contractor shall remit to the Procuring Agency the full amount of the reduction.
- 8.) Should this Agreement terminate due to the Contractor's default, the Contractor shall reimburse the Procuring Agency for all costs arising from hiring new contractor/subcontractors at potentially higher rates and for other costs incurred.
- 9.) In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall assist and cooperate with the Procuring Agency in the orderly and timely transfer of files, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Procuring Agency or created by the Contractor under this Agreement, to the Procuring Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Project Manager, the Contractor shall provide to the Procuring Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Procuring Agency or created by the Contractor under this Agreement.

B. Procuring Agency. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Procuring Agency shall 1) Retain ownership of all work products and documentation created pursuant to this Agreement; and 2) Pay the Contractor all amounts due for services Accepted prior to the effective date of such termination or expiration.

ARTICLE 8 –INDEMNIFICATION

A. **General.** The Contractor shall defend, indemnify and hold harmless the Procuring Agency, the State of New Mexico and its employees from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. 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, by certified mail, the legal counsel of the Procuring Agency, the Risk Management Division of the New Mexico General Services Department, and the DoIT .

B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the Procuring Agency, as necessary, to satisfy any outstanding claim that the Procuring Agency may have against the Contractor.

ARTICLE 9 - INTELLECTUAL PROPERTY

A. **Ownership.** Any and all Intellectual Property, including but not limited to copyright, patentable inventions, patents, trademarks, trade names, service marks, and/or trade secrets created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Intellectual Property. Any and all Know How created or conceived pursuant to, or as a result of, performance of this Agreement, shall be work made for hire and the Procuring Agency shall be considered the creator and owner of such Know How. The Procuring Agency shall own the entire right, title and interest to the Intellectual Property and Know How worldwide, and, other than in the performance of this Agreement, the Contractor, subcontractor(s), officers, agents and assigns shall not make use of, or disclose the Intellectual Property and Know How to any entity or person outside of the Procuring Agency without the express written authorization of the Procuring Agency. Contractor shall notify the Procuring Agency, within fifteen (15) business days, of the creation of any Intellectual Property by it or its subcontractor(s). Contractor, on behalf of itself and any subcontractor(s), agrees to execute any and all document(s) necessary to assure that ownership of the Intellectual Property vests in the Procuring Agency and shall take no affirmative actions that might have the effect of vesting all or part of the Intellectual Property in any entity other than the Procuring Agency. If, by judgment of a court of competent jurisdiction, Intellectual Property, Know How, or Know How Rights are not deemed to be created or owned by the Procuring Agency, Contractor hereby acknowledges and agrees to grant to the Procuring Agency and the State of New Mexico, a perpetual, non-exclusive, royalty free license to reproduce, publish, use, copy and modify the Intellectual Property and Know How.

ARTICLE 10 – INTELLECTUAL PROPERTY INDEMNIFICATION

A. **Intellectual Property Indemnification.** The Contractor shall defend, at its own expense, the Procuring Agency, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorneys fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the Procuring Agency based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the Procuring Agency for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Procuring Agency shall:

- 1.) Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
- 2.) Allow the Contractor to control the defense and settlement of the claim; and
- 3.) Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

B. **Procuring Agency Rights.** If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

- 1.) Provide the Procuring Agency the right to continue using the product or service and fully indemnify the Procuring Agency against all claims that may arise out of the Procuring Agency's use of the product or service;
- 2.) Replace or modify the product or service so that it becomes non-infringing; or
- 3.) Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the Procuring Agency to the extent such modification is the cause of the claim.

ARTICLE 11 - WARRANTIES

A. **General.** The Contractor hereby expressly warrants the Deliverables as being correct and compliant with the terms of this Agreement, Contractor's official published specification and technical specifications of this Agreement and all generally accepted industry standards. This warranty encompasses correction of defective Deliverables and revision of the same, as necessary, including deficiencies found during testing, implementation, or post-implementation phases.

B. **Software.** The Contractor warrants that any software or other products delivered under this Agreement shall comply with the terms of this Agreement, Contractor's official published specification(s) and technical specifications of this Agreement and all generally accepted industry standards. The Contractor further warrants that the software provided under this Agreement will meet the applicable specifications for the warranty

period as indicated in the Equipment Services Schedule (BSS) after Acceptance by the Executive Level Representative and implementation by the Procuring Agency. If the software fails to meet the applicable specifications during the warranty period, the Contractor will correct the deficiencies, at no additional cost to the Procuring Agency, so that the software meets the applicable specifications.

ARTICLE 12 – CONTRACTOR PERSONNEL

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

B. **Personnel Changes.** Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For all personnel, the Procuring Agency reserves 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 Procuring Agency approval. The Procuring Agency, in its 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 Procuring Agency reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

ARTICLE 13 – STATUS OF CONTRACTOR

A. **Independent Contractor.** The Contractor and its agents and employees are independent contractors performing professional services for the Agency 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 personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

B. **Subject of Proceedings.** Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Procuring Agency.

ARTICLE 14 - CHANGE MANAGEMENT

Not Applicable.

ARTICLE 15 – INDEPENDENT VERIFICATION AND VALIDATION

Not Applicable

ARTICLE 16 – DEFAULT/BREACH

In case of default and/or breach by the Contractor, for any reason whatsoever, the Procuring Agency 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 Agency and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

ARTICLE 17 – EQUITABLE REMEDIES

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

ARTICLE 18 - LIABILITY

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property before or after Acceptance, delivery, installation and use of the equipment, either at the Contractor's site or the Procuring Agency's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor or defect of the equipment or installation. Contractor shall not be liable for damages arising out of, or caused by, alterations to the equipment (other than alterations performed or caused by Contractor's officers, employees or agents) made by the Procuring Agency or for losses occasioned by the Procuring Agency's fault or negligence. Nothing in this Agreement shall limit the Contractor's liability, if any, to third parties and employees of the Procuring Agency or the State of New Mexico, or any remedy that may exist under law or equity in the event a defect in the manufacture of the equipment, or the negligent acts or omissions of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

ARTICLE 19 – 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 this Agreement's approval authorities.

ARTICLE 20 – SUBCONTRACTING

The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the

Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the Procuring Agency.

ARTICLE 21 - RELEASE

The Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. 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.

ARTICLE 22 - CONFIDENTIALITY

Any confidential information provided to the contractor by the agency or, developed by the Contractor based on information provided by the agency 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 Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to the Procuring Agency within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to the Procuring Agency will result in direct, special and incidental damages.

ARTICLE 23 - CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer, state employee or former state employee have been followed.

ARTICLE 24 - RECORDS AND AUDIT

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during this 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 Procuring Agency, CIO, SPA, and DFA. The Procuring Agency shall have the right to audit billings both before and after payment. Payment for services under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments.

ARTICLE 25 - AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto. No amendment shall be effective or binding unless approved by all of the approval authorities.

ARTICLE 26 – New Mexico Employees Health Coverage

1. 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 the contract, Contractor certifies, by signing this agreement, to:

(a) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(b) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or;

(c) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

2. Contractor must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

3. Contractor must agree 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 <http://insurenw.mexico.state.nm.us/>.

4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

ARTICLE 27 - MERGER, SCOPE, ORDER OF PRECEDENCE

A. **Severable.** The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such

invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.

B. Merger/Scope/Order. This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement.

ARTICLE 28 - NOTICES

Any party may give written notice to the other party in accordance with the terms of this paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To SPA: State Purchasing Agent
 Purchasing Division
 Joseph M. Montoya State Building,
 Room 2016
 1100 St. Francis Drive
 Santa Fe, New Mexico 87505

To Contractor: INX Inc.
 1720 Louisiana Blvd. NE
 Albuquerque, NM 87110

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

ARTICLE 29- GENERAL PROVISIONS

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

B. **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 agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, 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.

C. **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 Procuring Agency.

D. Applicable Law. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in the county where the Procuring Agency's main office is located. 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 such lawsuits.

E. Waiver. 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 expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

F. 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.

ARTICLE 30 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements and other unexpired agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement.

ARTICLE 31 - TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 32 - FORCE MAJEURE


Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party who performance is affected.

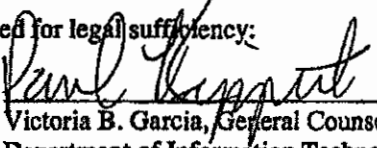
ARTICLE 33 - NOTICE OF PENALTIES

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

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By:  Date: 12-11-08
Marlin Mackey, Secretary/CIO
Department of Information Technology

By:  Date: 12/8/08
Ted Bonnell
Vice President of Southwest Region
INX Inc.

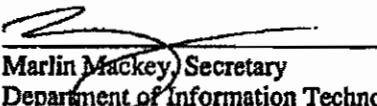
Approved for legal sufficiency:
By:  Date: 12/11/08
Victoria B. Garcia, General Counsel
Department of Information Technology

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

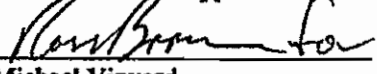
CRS ID Number: 03-045509-000

By:  Date: 12/15/08
Taxation & Revenue Department

Approved as to information technology contractual specifications and compliance with all pertinent statutory laws defining the mission and authority of the Department of Information Technology and all Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico.

By:  Date: 12-11-08
Marlin Mackey, Secretary
Department of Information Technology

This Agreement has been approved by the SPA:

By:  Date: 12-23-08
Michael Vinyard
Purchasing Agent for the State of New Mexico

ATTACHMENT A
DATA WIDE/LOCAL AREA NETWORK SYSTEMS EQUIPMENT &
SERVICES
Manufacturer: Cisco

**DATA WIDE/LOCAL AREA NETWORK SYSTEMS
EQUIPMENT AND SERVICES**

Best and Final Offer

**COST WAN/LAN NETWORK DATA
EQUIPMENT SERVICES**

Costs for Wide Area/Local Network Data Equipment & Services Form

Offeror Name: INX, Inc.

Changes to Original RFP Response:

C.1.a Hardware Costs:

37.25% off then current Manufacturers Published List Price for hardware. If other than percentage off Published List Price, please describe. Identify the Manufacturers published price list referenced.

13.25% off then current Manufacturers Published List Price for maintenance (Smartnet)

C.1.b Software Costs:

37.25% off then current Manufacturers published list price for software if applicable. If other than percentage off published list price, please describe. Identify the Manufacturers published price list referenced.

APPENDIX I

OFFEROR RESPONSE ADDITIONAL TECHNICAL SERVICE FORM FOR

Data Wide/Local Area Network Equipment & Services

Offeror Name: INX, Inc.

Changes to Original RFP Response:

Additional Job Classification Description	*Experience Level	Maximum Hourly Rate
Network Management Services	6 years	Cost To Be Determined Based on Project Scope of Work
Network Support Services	7 years	Cost To Be Determined Based on Project Scope of Work

*Experience Level =

Junior level is (between) 1 – 4 years

Mid level is (more than) 4 years (less than) 7 years

State of New Mexico Data Wide/Local Area Network Equipment and Services ESS Contract

INX Professional Services		Contract Price
INX Technician I	Onsite Technical and Implementation Support	\$95.00
INX Engineer I	Design and Support Engineer	\$125.00
INX Engineer II	Design and Support Engineer	\$150.00
INX Engineer III	Design and Support Engineer	\$175.00
INX Engineer IV	Design and Support Engineer	\$200.00
INX Project Manager	Project Management	\$150.00
INX Training	INX Training Network	\$95.00
INX-NMS	Network Management Services	TBD based on Project Scope of Work
INX-NSS	Network Support Services	TBD based on Project Scope of Work
Manufacturer 90 Day Warranty on Product		



PRESIDIO

December 30, 2011

Announcing the Acquisition of INX INC.

Dear Valued Business Partner:

As of today, Presidio, Inc. acquired all the shares of INX Inc. As a result of the acquisition, INX Inc. has been converted into a limited liability company, now known as INX LLC ("INX"), a wholly-owned subsidiary of Presidio Networked Solutions, Inc.

From a practical standpoint, nothing has changed with respect to our business relationship with you other than the name change. INX will continue to operate as a separate legal entity, and any agreement that INX Inc. has with you remains with INX LLC. INX will continue to provide products and services under these agreements starting January 1, 2012 under the same tax identification number, 76-0515249. Please note that we have included an updated W-9 with Presidio Networked Solutions, Inc.'s tax identification number, which will be used for federal income tax purposes only. You should use INX LLC's tax identification for all other purposes.

If you currently have an account with INX Inc., please use the established account. For timely processing of payments, please include "INX LLC" as the "Payee". Otherwise, neither our payment process nor our payment address has changed. The payment address remains as follows:

INX LLC, a Presidio Company
ATTN: Accounts Receivable
P.O. Box 4346 (Dept.523)
Houston, TX 77210-4346

OR

pwestcredit@presidio.com

If you have any accounts receivable questions, please contact Joe Hedgecock at INX LLC by email at JHedgecock@presidio.com. If you have any questions about your agreement or the acquisition by Presidio, please contact Andrew Rosenbaum at INX LLC at 469-549-3927 or at ARosenbaum@presidio.com.

Please note that we have also attached our updated insurance certificate.

We greatly appreciate your cooperation during this transition and look forward to continuing our valued business partnership.

Best regards,

INX LLC, a Presidio Company

enclosures

Meeting Date: June 20, 2012
Staff Contact: Chris Framel, Chief Information Officer

TITLE: C-12-13 – Approving Agreement with TEKsystems, Inc. for Technology Services

ACTION: Recommend Approval

SUMMARY:

The Water Authority, at times, requires additional highly technical resources to provide various information systems hardware and software services. This is needed due to short-term projects being implemented, required expertise that Water Authority personnel may need, or when staff vacancies result in the need for short term technical assistance.

This agreement will provide the Water Authority on-call assistance in various information technology services, such as those described above.

The Water Authority is using an existing State Purchasing Agreement for this contract. The Water Authority will contract with TEKsystems until the State Purchasing Agreement expires or is renewed. If the agreement is renewed, the Water Authority is authorized by the Board to renew our agreement if mutually agreed upon by TEKsystems and the Water Authority. The initial agreement will terminate on June 30, 2013.

FISCAL IMPACT:

The cost of this agreement is approximately \$150,000. The Water Authority has budgeted the capital and operating resources to cover this agreement.

COMMENTS:

TEKsystems provides temporary information technology experienced staffing services. Given the technical knowledge needed to step in and assist on operating or planned data systems requires skill and expertise that is not readily available through regular temporary staffing agencies. Services will be requested on an as needed basis to insure that information technology services are adequately delivered and maintained.

**AGREEMENT
BETWEEN THE
ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY
AND
TEKSYSTEMS, INC.**

THIS AGREEMENT is made and entered into on the date of the last signature entered below by and between the Albuquerque Bernalillo County Water Utility Authority, a New Mexico political subdivision, P.O. Box 568, Albuquerque, New Mexico 87103-0568 (hereinafter referred to as the "Water Authority") and TEKsystems, Inc., a Maryland corporation located at 2155 Louisiana Blvd. NE, Suite 6700, Albuquerque, New Mexico 87110 (hereinafter referred to as the "Contractor").

RECITALS

WHEREAS, the Water Authority requires various information technology services; and

WHEREAS, the Contractor has in-depth knowledge of the Water Authority's network infrastructure and industry best practices; and

WHEREAS, the Contractor was competitively selected and awarded a contract through the State of New Mexico's General Services Department procurement process after notice and publication and in accordance with the requirements of the procurement laws and regulations applicable to that public agency; and

WHEREAS, the Water Authority desires to engage the services of the Contractor based upon their selection and award by the State of New Mexico under Statewide Price Agreement No. 10-000-00-00051AF, Title: IT Professional Services, which is attached hereto and incorporated herein as part of this Agreement; and

WHEREAS, the Water Authority desires to engage the Contractor to render certain information technology services in connection therewith; and

WHEREAS, the Contractor is able to provide such services at a cost and in a timeframe in accordance with Water Authority goals and objectives.

NOW THEREFORE, in consideration of the premises and mutual obligations herein, the parties hereto do mutually agree as follows:

1. **Scope of Services**: The Contractor shall perform the following services (hereinafter referred to as the "Services") in a satisfactory and proper manner, as determined by the Water Authority:

Provide IT professional services as described in the attached Statewide Price Agreement No. 10-000-00-00051AF, Title: IT Professional Service, which is attached hereto and incorporated herein as part of this Agreement.

2. **Time of Performance:** Services of the Contractor shall commence upon the date of the last signature entered below, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this Agreement; provided, however, that in any event, all of the Services required hereunder shall be completed by June 30, 2013. This Agreement may be extended for up to two (2) additional one (1) year terms upon written agreement of the parties conditioned upon extension of the Statewide Price Agreement No. 10-000-00-00051AF.

3. **Compensation and Method of Payment:**
 - A. **Compensation.** For performing the Services specified in Section 1 hereof, the Water Authority agrees to pay the Contractor up to the amount of **One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00)**, which amount includes any applicable gross receipts taxes and which amount shall constitute full and complete compensation for the Contractor's Services under this Agreement, including all expenditures made and expenses incurred by the Contractor in performing such Services.

 - B. **Method of Payment for Services.** Payment for Services shall be made at the rates set forth in the rate schedules attached as Exhibits A through G of the Statewide Price Agreement No. 10-000-00-00051AF and incorporated herein. The Contractor shall be reimbursed for any applicable New Mexico gross receipts taxes or local option taxes for services rendered. Such taxes must be itemized separately on the invoice. Payments shall be made to the Contractor monthly for Services provided during the previous month. Payments shall be made upon receipt by the Water Authority of properly documented requisitions for payment as determined by the budgetary and fiscal guidelines of the Water Authority and on the condition that the Contractor has accomplished the Services to the satisfaction of the Water Authority.

 - C. **Appropriations.** Notwithstanding any other provisions in this Agreement, the terms of this Agreement are contingent upon the Water Authority Board making the appropriations necessary for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Water Authority Board, this Agreement may be terminated at the end of the Water Authority's then current fiscal year upon written notice given by the Water Authority to the Contractor. Such event shall not constitute an event of default. All payment obligations of the Water Authority and all of its interest in this Agreement will cease upon the date of termination. The Water Authority's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

4. **Independent Contractor:** Neither the Contractor nor its employees are considered to be employees of the Water Authority for any purpose whatsoever. The Contractor is considered as an independent contractor at all times in the performance of the Services described in Section 1. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the Water Authority under the provisions of the Workers'

Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of the Water Authority under the provisions of the Merit System Ordinance as now enacted or hereafter amended.

5. **Personnel:**

A. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing all of the Services required under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the Water Authority.

B. All the Services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

C. None of the work or Services covered by this Agreement shall be subcontracted without the prior written approval of the Water Authority. Any work or Services subcontracted hereunder shall be specified by written contract or Agreement and shall be subject to each provision of the Agreement.

6. **Indemnity:** The Contractor agrees to defend, indemnify and hold harmless the Water Authority and its officials, agents and employees from and against any and all claims, actions, suits or proceeding of any kind brought against said parties for or on account of any matter arising out of or resulting from the Services performed by the Contractor under this Agreement. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

7. **Insurance:** The Contractor shall procure and maintain at its expense until final payment by the Water Authority for services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations under this Agreement, whether performed by it or its agents. Before commencing the Services and on the renewal of all coverages, the Contractor shall furnish the Water Authority a certificate or certificates in form satisfactory to the Water Authority showing that it has complied with this Section. All certificates of insurance shall provide that thirty (30) days written notice be given to the Risk Manager, Department of Finance and Administrative Services, City of Albuquerque, P.O. Box 470, Albuquerque, New Mexico, 87103, before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. With respect to all coverages required other than workers' compensation, the Water Authority shall be named an additional insured. All coverages afforded shall be primary with respect to operations provided. Kinds and amounts of insurance required are as follows:

A. **Automobile Liability Insurance.** An automobile liability insurance policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence.

Said policy of insurance must include coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work.

- B. **Workers' Compensation Insurance.** Workers' compensation insurance for its employees in accordance with the provisions of the Workers' Compensation Act of the State of New Mexico.
 - C. **Professional Liability Insurance.** Professional liability insurance in an amount not less than \$1,000,000.00 per claim and in the aggregate.
 - D. **Increased Limits.** If, during the term of this Agreement, the Water Authority requires the Contractor to increase maximum limits of any insurance required herein, an appropriate adjustment in the Contractor's compensation will be made.
8. **Discrimination Prohibited:** In performing the Services required hereunder, the Contractor shall not discriminate against any person on the basis of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, physical handicap, or disability as defined in the Americans With Disabilities Act of 1990, as now enacted or hereafter amended.
9. **ADA Compliance:** In performing the Services required hereunder, the Contractor agrees to meet all the requirements of the Americans With Disabilities Act of 1990, and all applicable rules and regulations (the "ADA"), which are imposed directly on the Contractor or which would be imposed on the Water Authority as a public entity. The Contractor agrees to be responsible for knowing all applicable requirements of the ADA and to defend, indemnify and hold harmless the Water Authority, its officials, agents and employees from and against any and all claims, actions, suits or proceedings of any kind brought against said parties as a result of any acts or omissions of the Contractor or its agents in violation of the ADA.
10. **Reports and Information:** At such times and in such forms as the Water Authority may require, there shall be furnished to the Water Authority such statements, records, reports, data and information, as the Water Authority may request pertaining to matters covered by this Agreement. Unless authorized by the Water Authority, the Contractor will not release any information concerning the work product including any reports or other documents prepared pursuant to this Agreement until the final product is submitted to the Water Authority.
11. **Establishment and Maintenance of Records:** Records shall be maintained by the Contractor in accordance with applicable law and requirements prescribed by the Water Authority with respect to all matters covered by this Agreement. Except as otherwise authorized by the Water Authority, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.

12. **Audits and Inspections:** At any time during normal business hours and as often as the Water Authority may deem necessary, there shall be made available to the Water Authority for examination all of the Contractor's records with respect to all matters covered by this Agreement. The Contractor shall permit the Water Authority to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.
13. **Conflict of Interest; Governmental Conduct Act:** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a current or former "public officer or employee" have been followed.
14. **Publication, Reproduction and Use of Material:** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The Water Authority shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.
15. **Compliance with Laws:** In performing the Services required herein, the Contractor shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments.
16. **Changes:** The Water Authority may, from time to time, request changes in the Services 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 Water Authority and the Contractor, shall be incorporated in written amendments to this Agreement.
17. **Assignability:** The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation), without the prior written consent of the Water Authority therein.
18. **Termination for Cause:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the Water Authority shall thereupon have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs, and reports prepared by the Contractor under this Agreement shall, at the option of the Water Authority, become its property. The Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notice to the Water Authority: Mark S. Sanchez, Executive Director
Albuquerque Bernalillo County Water Utility Authority
One Civic Plaza NW, Room 5012
Albuquerque, NM 87102

25. **Approval Required:** This Agreement shall not become effective or binding until approved by the Water Authority's Executive Director.

IN WITNESS WHEREOF, the Water Authority and the Contractor have executed this Agreement on the date of the last signature entered below.

**ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY**

CONTRACTOR: TEKsystems, Inc.

Approved By:

Mark S. Sanchez, Executive Director

Date: _____

Reviewed by:

Charles W. Kolberg, General Counsel

Date: _____

By: _____

Print: _____

Title: _____

Date: _____

State Taxation and Revenue Department

Taxpayer Identification No.: _____

Federal Taxpayer Identification No.



State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
0000019969
TEKsystems, Inc.
P.O. Box 198568
Atlanta, GA 30384


Telephone No. 505-872-6301

Price Agreement Number: 10-000-00-00051AF

Price Agreement Amendment No.: One

Term: July 1, 2011 – May 31, 2013

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public bodies
allowed by law.

Procurement Specialist: Gerrie Becker 

Telephone No.: (505) 476-3121

Invoice:

As Requested

Title: IT Professional Services

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from June 1, 2012 to May 31, 2013 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 2/13/12



**State of New Mexico
General Services Department**

Statewide Price Agreement

Awarded Vendor

0000019969
TEKsystems, Inc.
PO Box 198568
Atlanta, GA 30384

Telephone No. 505-872-6301

Price Agreement Number: 10-000-00-00051AF

Payment Terms: Per Contract

F.O.B.: Per Contract

Delivery: Per Contract

Ship To:

All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public bodies
allowed by law.

Procurement Specialist: Gerrie Becker

Telephone No.: 505-476-3121

Invoice:

As Requested

Title: **IT Professional Services**

Term: **July 1, 2011 thru March 30, 2012**

This Price Agreement is made subject to the "terms and conditions" shown on the reverse side of this page, and as indicated in this Price Agreement.

Accepted for the State of New Mexico

A handwritten signature in black ink, appearing to be "D. J. ...", written over a horizontal line.

New Mexico State Purchasing Agent

Date: 6/21/11

Purchasing Division, 1100 St. Francis Drive, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472

Handwritten initials "CM" in black ink.

**State of New Mexico
Information Technology**

Price Agreement

Price Agreement No. 10-000-00-00051A-~~AF~~ AF

THIS Information Technology Price Agreement ("Agreement") is made by and between the State of New Mexico, State Purchasing Division, hereinafter referred to as the "Agency" and TEKsystems, Inc., hereinafter referred to as the "Contractor" and collectively referred to as the "Parties".

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.*; and Procurement Code Regulations, NMAC 1.4.1 *et. seq.*; the Contractor has held itself out as expert in implementing the Scope of Work as contained herein and the Agency has selected the Contractor as the Offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of this Agreement, the Contractor's proposal, including any best and final offers, and the RFP are hereby incorporated by reference in this contract. In the event of a conflict between these items, the conflict will be resolved by giving priority in the following order:

1. All federal and New Mexico laws, rules and regulations regarding services within the Contractor's scope of work.
2. This Agreement and any written amendments to this Agreement.
3. The Request for Proposal (RFP), all RFP amendments, written clarifications to the RFP, and written answers to written questions concerning the RFP.
4. Contractor's Best and Final Offer
5. Contractor's Proposal.

ARTICLE 1 – DEFINITIONS

- A. "**Acceptance**" shall mean the approval, after Quality Assurance, of all Deliverables by an executive level representative ("Executive Level Representative") of the Agency.
- B. "**Change Request**" shall mean the document utilized to request changes or revisions in the Scope of Work.
- C. "**Chief Information Officer ("CIO")**" shall mean the Secretary of the Department of Information Technology for the State of New Mexico or designated representative.
- D. "**Deliverable**" shall mean any verifiable outcome, result, service or product that must be delivered, developed, performed or produced by the Contractor as defined by the Scope of Work.
- E. "**DoIT**" shall mean the Department of Information Technology.
- F. "**DFA**" shall mean the Department of Finance and Administration; "**DFA/CRB**" shall mean the Department of Finance and Administration, Contracts Review Bureau.
- G. "**Escrow**" shall mean a legal document (such as the software source code) delivered by the contractor into the hands of a third party, to be held by that party until the performance of a condition is accepted; in the event contractor fails to perform, the grantee agency receives the legal document, in this case, source code.

H. "Enhancement" means any modification or addition that, when made or added to the program, materially changes its or their utility, efficiency, functional capability, or application, but does not constitute solely an Error Correction. After conferring with Agency, an Enhancement may be identified as minor or major.

I. "Know How" shall mean all technical information, data and knowledge including, but not limited to, all documents, computer storage devices, drawings, flow charts, plans, proposals, records, notes, memoranda, manuals and other tangible items containing, relating or causing the enablement of any Intellectual Property developed under this Agreement.

J. "Intellectual Property" shall mean any and all proprietary information developed pursuant to the terms of this Agreement.

K. "Independent Verification and Validation ("IV&V")" shall mean the process of evaluating a project and the project's product to determine compliance with specified requirements and the process of determining whether the products of a given development phase fulfill the requirements established during the previous stage, both of which are performed by an entity independent of the Agency.

L. "Payment Invoice" shall mean a detailed, certified and written request for payment of services rendered from the Contractor to the Agency. Payment Invoice(s) must contain the fixed price Deliverable cost and identify the Deliverable for which the invoice is submitted.

M. "Performance Bond" shall mean a surety bond which guarantees that the contractor will fully perform the contract and guarantees against breach of contract.

N. "Project" shall mean a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project approval is given by the Executive Level Representative and verified by the agency CIO to the DoIT.

O. "Project Manager" shall mean a qualified person from the Agency responsible for all aspects of the Project

P. "Quality Assurance" shall mean a planned and systematic pattern of all actions necessary to provide adequate confidence that a Deliverable conforms to established requirements, customer needs, and user expectations.

Q. "State Purchasing Agent (SPA)" - shall mean the State Purchasing Agent for the State of New Mexico or designated representative.

R. "State Purchasing Division (SPD)"- shall mean the State Purchasing Division of the General Services Department for the State of New Mexico

ARTICLE 2 – SCOPE OF WORK

A. Scope of Work. The Contractor shall provide information technology services to the Procuring Agency in accordance with the completed IT Professional Services Contract and the terms and conditions of the price agreement at the rate shown in Exhibit A.

B. Performance Measures. In addition, each IT Professional Services Contract will become a part of the agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

- 1) The terms and conditions of this document;
- 2) The completed Contract/Purchase Order;
- 3) The request for proposals document; and
- 4) The contractor's written proposal including the Best and Final Offer, if one was submitted.

C. This is not an exclusive Price Agreement. Procuring Agencies may obtain services from other sources during the Price Agreement term. The SPA makes no expressed or implied warranties whatsoever that any particular number of Purchase Orders will be issued or that any particular quantity or dollar amount of services will be procured.

ARTICLE 3 - COMPENSATION

All payments under this Price Agreement are subject to the following provisions:

a. Acceptance - In accordance with Section 13-1-158 NMSA 1978, Project Manager shall determine if the services provided meet Purchase Order specifications contained therein. No payment shall be made for any service until the services have been accepted in writing by the Project Manager. Unless otherwise agreed upon between Procuring Agency and the Contractor, within fifteen (15) days from the date the Project Manager receives written notice (Contractor's Invoice) from the Contractor that payment is requested for services, the Project Manager shall issue a written certification to the Contractor of complete or partial acceptance or rejection of the services.

b. Rejection - Unless the Executive Level Representative gives notice of rejection within the fifteen (15) day business day Acceptance period, the Deliverable will be deemed to have been accepted. If the Deliverable is deemed unacceptable under Quality Assurance, fifteen (15) days from the date the Executive Level Representative receives the Deliverable(s) and accompanying Payment Invoice, the Executive Level Representative will send a consolidated set of comments indicating issues, unacceptable items, and/or requested revisions accompanying the rejection. Upon rejection and receipt of comments, the Contractor will have ten (10) business days to resubmit the Deliverable to the Executive Level Representative with all appropriate corrections or modifications made and/or addressed. The Executive Level Representative will again determine whether the Deliverable(s) is Acceptable under Quality Assurance and provide a written determination within fifteen (15) business days of receipt of the revised or amended Deliverable. If the Deliverable is once again deemed unacceptable under Quality Assurance and thus rejected, the Contractor will be required to provide a remediation plan that shall include a timeline for corrective action acceptable to the Executive Level Representative. The Contractor shall also be subject to all damages and remedies attributable to the late delivery of the Deliverable under the terms of this Agreement and available at law or equity. In the event that a Deliverable must be resubmitted more than twice for Acceptance, the Contractor shall be deemed as in breach of this Agreement. The

Agency may seek any and all damages and remedies available under the terms of this Agreement and available at law or equity. Additionally, the Agency may terminate this Agreement.

c. Compensation - The approved maximum rates to be paid for services rendered are contained in the Services Schedule. The Procuring Agency may reimburse Contractor for reasonable travel/per diem expenses for work performed at distances greater than 100 miles from the Contractor's primary place of business in New Mexico. The conditions for travel, the type and amount expenses to be reimbursed shall be stated in the Procuring Agency Agreement. Travel time from the Contractor's primary place of business and the worksite is not billable.

d. Payment of Invoice - Payment will be made to the Contractor's designated mailing address.

e. Payment of Taxes - The Contractor shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes or local option taxes for services rendered. Such taxes must be itemized separately on the invoice.

The payment of taxes for any money received under this Price Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s).

f. Invoices - Invoices shall be submitted to the Project Manager.

g. Facilities and Equipment - The Procuring Agency shall provide contractor personnel with reasonable office work space and facilities including access to a local telephone service, copy machine usage and office supplies. Unless otherwise stated in the Procuring Agency Agreement, the contractor shall provide contractor personnel with any required personal computer equipment and software and shall reimburse the procuring agencies for all long distance telephone calls charged to the Procuring Agency.

h. Appropriations - The terms of this Price Agreement and any Purchase Orders are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico or other appropriate governing bodies for performance pursuant to this Price Agreement. Notwithstanding any language to the contrary in this Price Agreement or in any Purchase Order or other document, a Procuring Agency may terminate its obligation under a Purchase Order, or any extension thereof, if sufficient appropriations and authorization are not made by the Legislature or other appropriate governing body to pay amounts due. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final and binding. However, Procuring Agencies agree not to use insufficient appropriations as a means of terminating a Purchase Order in order to acquire functionally equivalent services from a third party.

i. Release - The Contractor, upon final payment of the amount due under a Purchase Order, releases the State of New Mexico, and its agencies and public employees, from all liabilities, claims and obligations whatsoever arising from or under this Price Agreement. The Contractor agrees not to purport to bind the State of New Mexico to any obligation not assumed herein by 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.

ARTICLE 4 – TERM

The initial term of this Price Agreement shall be March 31, 2011 or as soon as possible thereafter, through March 30, 2012.

The SPA may extend the initial term of the Price Agreement for three (3) additional one-year terms, or portions thereof, by giving the Contractor a written offer to renew the agreement at least thirty (30) days prior to the expiration of the then-current term. Service rates can change each year at the time of renewal if exercised, any proposed increase in the maximum rates for each authorized service shall not exceed the lower of the increase in the published Consumer Price Index (or other index approved by the Agreement Administrator) during the previous agreement term~ or the percentage increase in the Contractor's published consultant rates.

Except as noted elsewhere in this paragraph, the SPA expects all terms and conditions of this Price Agreement to apply to any option temps exercised. No changes to terms and conditions shall be effective unless reduced to written amendment in accordance with Paragraph 15 of this Price Agreement.

ARTICLE 5 – TERMINATION

This Agreement may be terminated as follows:

A. **General.** By either Party upon written notice to be delivered to the other party not less than thirty (30) business days prior to the intended date of termination.

C. **Obligations and Waiver.** By termination pursuant to this Article, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. THIS ARTICLE IS NOT EXCLUSIVE AND DOES NOT CONSTITUTE A WAIVER OF ANY OTHER LEGAL RIGHTS AND REMEDIES AFFORDED THE AGENCY AND THE STATE OF NEW MEXICO CAUSED BY THE CONTRACTOR'S DEFAULT OR BREACH OF THIS AGREEMENT.

ARTICLE 6 – TERMINATION MANAGEMENT

A. **Contractor.** In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Contractor shall:

- 1.) Transfer, deliver, and/or make readily available to the Agency property in which the Agency has a financial interest and any and all data, Know How, Intellectual Property, inventions or property of the Agency.
- 2.) Incur no further financial obligations for materials, services, or facilities under the Agreement without prior written approval of the Agency;
- 3.) Terminate all purchase orders or procurements and any subcontractors and cease all work, except as the Agency may direct, for orderly completion and transition;
- 4.) Take such action as the Agency may direct, for the protection and preservation of all property and all records related to and required by this Agreement;
- 5.) Agree that the Agency is not liable for any costs arising out of termination and that the Agency is liable only for costs of Deliverables Accepted prior to the termination of the Agreement;
- 6.) Cooperate fully in the closeout or transition of any activities to permit continuity in the administration of Agency programs;
- 7.) In the event that this Agreement is terminated due to the Contractor's course of performance, negligence or willful misconduct and that course of performance, negligence, or willful misconduct results in reductions in the Agency's receipt of program funds from any governmental agency, the Contractor shall remit to the Agency the full amount of the reduction.

8.) Should this Agreement terminate due to the Contractor's default, the Contractor shall reimburse the Agency for all costs arising from hiring new contractor/subcontractors at potentially higher rates and for other costs incurred.

9.) In the event this Agreement is terminated for any reason, or upon its expiration, the Contractor shall assist and cooperate with the Agency in the orderly and timely transfer of files, computer software, documentation, system turnover plan, Know How, Intellectual Property and other materials, whether provided by the Agency or created by the Contractor under this Agreement, to the Agency, including but not limited to, user manuals with complete documentation, functional technical descriptions of each program and data flow diagrams. At the request of the Project Manager, the Contractor shall provide to the Agency a copy of the most recent versions of all files, software, Know How, Intellectual Property and documentation, whether provided by the Agency or created by the Contractor under this Agreement.

B. Agency. In the event this Agreement is terminated for any reason, or upon expiration, and in addition to all other rights to property set forth in this Agreement, the Agency shall 1) Retain ownership of all work products and documentation created pursuant to this Agreement; and 2) Pay the Contractor all amounts due for services Accepted prior to the effective date of such termination or expiration.

ARTICLE 7 – INDEMNIFICATION

A. General. The Contractor shall defend, indemnify and hold harmless the Agency, the State of New Mexico and its employees from all actions, proceedings, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. 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, by certified mail, the legal counsel of the Agency, and the Risk Management Division of the New Mexico General Services Department.

B. The indemnification obligation under this Agreement shall not be limited by the existence of any insurance policy or by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor, and shall survive the termination of this Agreement. Money due or to become due to the Contractor under this Agreement may be retained by the Agency, as necessary, to satisfy any outstanding claim that the Agency may have against the Contractor.

ARTICLE 8 – INTELLECTUAL PROPERTY

A. Product of Services: Copyright. All materials developed or acquired by the Contractor under this Price Agreement shall become the property of the Procuring Agency. Nothing produced, in whole or in part, by the Contractor under this Price Agreement shall be the subject of an application for copyright by or on behalf of the Contractor. The original and one copy of all materials, work papers, design documents, or other documents produced by the Contractor shall be indexed and placed in appropriately labeled binders and delivered to the Project Manager at the conclusion of a Purchase Order.

ARTICLE 9 – INTELLECTUAL PROPERTY INDEMNIFICATION

A. **Intellectual Property Indemnification.** The Contractor shall defend, at its own expense, the Agency, the State of New Mexico and/or any other State of New Mexico body against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark, and shall pay all costs, damages and attorney's fees that may be awarded as a result of such claim. In addition, if any third party obtains a judgment against the Agency based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the Agency for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the Agency shall:

- 1.) Give the Contractor written notice, within forty-eight (48) hours, of its notification of any claim;
- 2.) Allow the Contractor to control the defense and settlement of the claim; and
- 3.) Cooperate with the Contractor, in a reasonable manner, to facilitate the defense or settlement of the claim.

B. **Agency Rights.** If any product or service becomes, or in the Contractor's opinion is likely to become, the subject of a claim of infringement, the Contractor shall, at its sole expense:

- 1.) Provide the Agency the right to continue using the product or service and fully indemnify the Agency against all claims that may arise out of the Agency's use of the product or service;
- 2.) Replace or modify the product or service so that it becomes non-infringing; or
- 3.) Accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the Agency to the extent such modification is the cause of the claim.

ARTICLE 10 - WARRANTIES

NA

ARTICLE 11 – CONTRACTOR PERSONNEL

A. Approval of Contractor Personnel

Personnel proposed in the Contractor's written proposal to the Procuring Agency are considered material to any work performed under this Price Agreement.

a. Once a Purchase Order has been issued, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld.

b. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

ARTICLE 12 – STATUS OF CONTRACTOR

A. **Independent Contractor.** The Contractor and its agents and employees are independent contractors performing professional services for the Agency 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 personally reportable by it for income tax purposes as self-employment or business income and are reportable for self-employment tax.

B. **Subject of Proceedings.** Contractor warrants that neither the Contractor nor any officer, stockholder, director or employee of the Contractor, is presently subject to any litigation or administrative proceeding before any court or administrative body which would have an adverse effect on the Contractor's ability to perform under this Agreement; nor, to the best knowledge of the Contractor, is any such litigation or proceeding presently threatened against it or any of its officers, stockholders, directors or employees. If any such proceeding is initiated or threatened during the term of this Agreement, the Contractor shall immediately disclose such fact to the Agency.

ARTICLE 13- CHANGE MANAGEMENT

A. **Changes.** Contractor may only make changes or revisions within the Scope of Work as defined by Article 2 and Exhibit A after receipt of written approval by the Executive Level Representative. Such change may only be made to Tasks or Sub-Task as defined in the Exhibit A. Under no circumstance shall such change affect the:

- 1) Deliverable requirements;
- 2) Compensation due under the terms of this Agreement; or
- 3) Due Date of any Deliverable.

B. **Change Request Process.** In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria: 1) The Project Manager shall draft a written Change Request for Executive Level Representative review and approval to include: the name of the person requesting the change, a summary of the required change, the start date for the change, the reason and necessity for change, the urgency level for the change, the elements to be altered, the impact of the change, the staffing plan associated with the change, the impact on the schedule for implementing the change, the cost impact, the risk assessment and a recommended approach to the change, and 2) The Executive Level Representative shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) working days of receipt of the Change Request. All decisions made by the Executive Level Representative are final. Change requests, once approved, become a part of the contract and become binding as a part of the original contract.

ARTICLE 14 – DEFAULT/BREACH

In case of default and/or breach by the Contractor, for any reason whatsoever, the Agency 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 Agency and the State of New Mexico may also seek all other remedies under the terms of this Agreement and under law or equity.

ARTICLE 15 – EQUITABLE REMEDIES

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

ARTICLE 16 - LIABILITY

Contractor shall be liable for damages arising out of injury to persons and/or damage to real or tangible personal property before or after Acceptance, delivery, installation and use of the equipment, either at the Contractor's site or the Agency's place of business, provided that the injury or damage was caused by the fault or negligence of the Contractor or defect of the equipment or installation. Contractor shall not be liable for damages arising out of, or caused by, alterations to the equipment (other than alterations performed or caused by Contractor's officers, employees or agents) made by the Agency or for losses occasioned by the Agency's fault or negligence. Nothing in this Agreement shall limit the Contractor's liability, if any, to third parties and employees of the Agency or the State of New Mexico, or any remedy that may exist under law or equity in the event a defect in the manufacture of the equipment, or the negligent acts or omissions of the Contractor, its officers, employees, or agents, is the cause of injury to such person.

ARTICLE 17 – 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 this Agreement's approval authorities.

ARTICLE 18 – SUBCONTRACTING

The Contractor shall not subcontract any portion of this Agreement without the prior written approval of the Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Agreement, nor shall any subcontracting obligate payment from the Agency.

ARTICLE 19 – RELEASE

The Contractor's acceptance of final payment of the amount due under this Agreement shall operate as a release of the Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement. 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.

ARTICLE 20 – CONFIDENTIALITY

Any confidential information provided to the contractor by the agency or, developed by the Contractor based on information provided by the agency 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 Agency. Upon termination of this Agreement, Contractor shall deliver all confidential material in its possession to the Agency within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such confidential information to the Agency will result in direct, special and incidental damages.

ARTICLE 21 – CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer, state employee or former state employee have been followed.

ARTICLE 22 - RECORDS AND AUDIT

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during this 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 Agency, CIO, SPA, and DFA. The Agency shall have the right to audit billings both before and after payment. Payment for services under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

ARTICLE 23 - AMENDMENT

This Agreement shall not be altered, changed, or amended except by an instrument in writing executed by the Parties hereto. No amendment shall be effective or binding unless approved by all of the approval authorities.

ARTICLE 24 – 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 the contract, Contractor certifies, by signing this agreement, to:

- (1) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(2) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$500,000 dollars or;

(3) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 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: <http://insurenemexico.state.nm.us/>.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); Contractor agrees these requirements shall apply the first day of the second month after the offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000, \$500,000 or \$1,000,000, depending on the dollar value threshold in effect at that time.

ARTICLE 25 - MERGER, SCOPE, ORDER OF PRECEDENCE

A. Severable. The provisions of this Agreement are severable, and if for any reason, a clause, sentence or paragraph of this Agreement is determined to be invalid by a court or agency or commission having jurisdiction over the subject matter hereof, such invalidity shall not affect other provisions of this Agreement, which can be given effect without the invalid provision.

B. Merger/Scope/Order. This Agreement incorporates any and all agreements, covenants and understandings between the Parties concerning the subject matter hereof, and all such agreements, covenants and understanding have been merged into this Agreement. No prior agreement or understanding, verbal or otherwise, of the Parties or their agents or assignees shall be valid or enforceable unless embodied in this Agreement.

ARTICLE 26 – NOTIFICATION

Either party may give written notice to the other party in accordance with the terms of this paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery, or three (3) business days after being mailed.

To SPA:

State Purchasing Agent
Purchasing Division
Joseph M. Montoya State Building, Room 2016

1100 St. Francis Drive
Santa Fe, New Mexico 87505

To Contractor: TEKsystems, Inc.
2155 Louisiana Blvd. NE, Suite 6700
Albuquerque, NM 87110

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph 26. The carrier for mail delivery and notices shall be the agent of the sender.

ARTICLE 27- GENERAL PROVISIONS

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

B. 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 agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, 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.

C. 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 Agency.

D. Applicable Law. The laws of the State of New Mexico shall govern this Agreement. Venue shall be proper only in a New Mexico court of competent jurisdiction in the county where the Agency's main office is located. 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 such lawsuits.

E. Waiver. 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 expressed and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

F. 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.

G. Work Site. Work shall be performed at the Procuring Agency's site unless specified otherwise in the Procuring Agency Agreement.

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

ARTICLE 28 - SURVIVAL

The Articles entitled Intellectual Property, Intellectual Property Ownership, Confidentiality, and Warranties shall survive the expiration or termination of this Agreement. Software License and Software Escrow agreements and other unexpired agreements entered into in conjunction with this Agreement shall survive the expiration or termination of this Agreement.

ARTICLE 29 – TIME

Calculation of Time. Any time period herein calculated by reference to "days" means calendar days; provided, however, that if the last day for a given act falls on a Saturday, Sunday, or a holiday as observed by the State of New Mexico, the day for such act shall be the first day following that is not a Saturday, Sunday, or such observed holiday.

ARTICLE 30- AGREEMENT ADMINISTRATOR

The SPA shall appoint an agreement administrator whose duties shall include, but not be limited to, the following:

a. The agreement administrator shall attempt to facilitate dispute resolution between the Contractor and procuring agencies. Unresolved disputes shall be presented to the SPA for resolution.

b. The agreement administrator shall review and recommend approval or disapproval of all requested changes to the Contractor's Services Schedule.

c. The agreement administrator shall advise the SPA regarding the Contractor's performance under the terms and conditions of the agreement.

d. The agreement administrator shall assist procuring agencies with the preparation of purchase orders and the approval thereof.

e. The agreement administrator shall review and accept quarterly utilization reports.

ARTICLE 31 – ADMINISTRATIVE REPORTING FEES

a. The contractor agrees to provide periodic price agreement utilization reports to the agreement administrator in accordance with the following schedule:

<u>Period End</u>	<u>Report Due</u>
June 30	July 31
September 30	October 31

December 31 January 31
March 31 April 30

b. The periodic report shall include the gross revenues for the period subtotaled by Procuring Agency name. If no revenue was generated for the period, a report shall be filed stating that fact. Reports containing revenue shall be accompanied with a check payable to SPA for an amount equal to one-half of one percent (0.0050) of the gross revenue for the period.

c. The failure to file the utilization reports and fees on a timely basis shall constitute grounds for suspension of the Price Agreement or termination of the Price Agreement for cause.

ARTICLE 32 – EMPLOYEE PAY EQUITY REPORTING

“Contractor agrees if it has ten (10) or more employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the required reporting form (PE10-249 or PE250, depending on their size at the time) either within thirty (30) calendar days of contract award (if the contract did not result from a solicitation) or on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration (if the contract did result from a solicitation).

“For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the required form-annually within thirty (30) calendar days of the annual contract anniversary date of the initial submittal date and, if more than 180 calendar days has elapsed since submittal of the last report, at the completion of the contract.

“Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) calendar days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

“Contractor also agrees to levy these reporting requirements on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) calendar days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report itself.

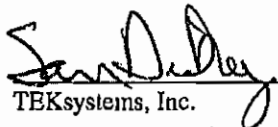
“Contractor shall not be required to report more frequently than annually unless more than 180

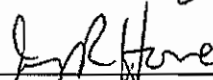
calendar days has elapsed since submittal of the last report and the contract has reached completion. The requirement for reporting at contract completion shall not apply in the case of a one-time fulfillment of a purchase order."

ARTICLE 33 – FORCE MAJEURE

Neither party shall be liable in damages or have any right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

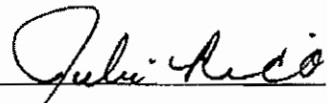
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

By:  Date: 5-28-11
TEKsystems, Inc.

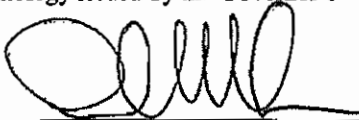
By:  Date: 6/1/11
Jay Hone, GSD General Council
For Legal Sufficiency

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

CRS ID Number: 02-395509000

By:  Date: 6/2/11
Taxation & Revenue Department

Approved as to information technology contractual specifications and compliance with the Department of Information Technology Act, Laws 2007, Chapter 290 and any and all Executive Orders relating to Information Technology issued by the Governor of the State of New Mexico:

By:  Date: 6/13/11
Darryl Ackley, Secretary
Department of Information Technology

This Agreement has been approved by the SPA:

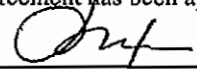
By:  Date: 6/21/11
Purchasing Agent for the State of New Mexico

Exhibit A

Service Category 5: Security Services

Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate	Products Supported
IT Security Services	ITSS1	\$75.00	N/A	Application Security, Network Security, LAN/WAN, Firewalls, Authentication, Capability, Access, VPN wireless access, Risk Management, other
	ITSS2	\$79.00		
	ITSS3	\$84.00		

Exhibit B

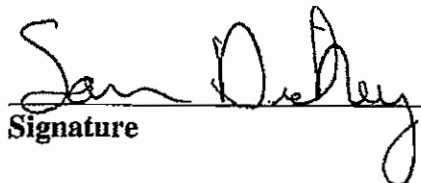
Service Category 7 Electronic Content Management Services

Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate Per Hour	Providers Supported
A. Electronic Content Management Technician	ECM Tech1	\$80.00	\$90.00	EMC Documentum, Captiva, eiStream, HP Trim, IBM FileNet, Oracle Stellent, Open Text Vignette, Hummingbird, Open Text ECM Suite, Nuxeo, Alfresco, SaaS, EDI, XML, other
	ECM Tech2	\$85.00	\$90.00	
	ECM Tech3	\$90.00	\$90.00	
B. Electronic Content Management Integration Consultant	ECM Consultant1	\$85.00	\$105.00	
	ECM Consultant2	\$95.00	\$105.00	
	ECM Consultant3	\$105.00	\$105.00	

Sam Dickey Director of Business Operations

Name & Title

6-2-11
Date



Signature

CPS ID # 02-395509-00-0

Exhibit C

Service Category 1 Data Management

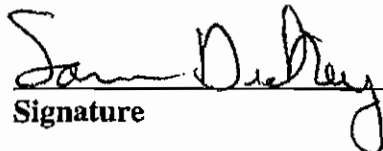
Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate (Hourly)	Products Supported
A. Database Admin	DBA1	\$80	\$90	SQL Server, Oracle, MySQL, Adabas, Informix, Sybase, PostGres, IBM DB2, Other
	DBA2	\$85		
	DBA3	\$90		
B. Database Architect	Database Architect	\$105	\$105	SQL Server, Oracle, MySQL, Adabas, Informix, Sybase, PostGres, IBM DB2, Other
C. Data Warehouse Specialist	Data Warehouse ETL Specialist	\$95	\$105	SQL Server, Oracle, MySQL, Adabas, Informix, Sybase, PostGres, IBM DB2, Other
	Data Warehouse Architect	\$105		

Sam Dickey Director of Business Operations

6-2-11

Name & Title

Date


Signature

CRS ID# 02-395509-00-0

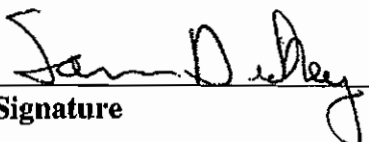
Exhibit D

Service Category 3 Network and Infrastructure Support Services

Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate (Hourly)	Products Supported
A. Network Administrator	NA1	\$60	\$80	Microsoft Technologies, VMware, Unified Communications, Cisco, Juniper, other
	NA2	\$65		
	NA3	\$70		
B. System Administrator	SA1	\$65	\$80	
	SA2	\$70		
	SA3	\$75		
C. Service Desk & End User Support Technician	SDT1	\$32	\$80	
	SDT2	\$37		
D. Voice/Data Engineer	VDE1	\$65	\$80	
	VDE2	\$70		
	VDE3	\$75		

Sam Dickey, Director of Business Operations
Name & Title

6-6-11
Date


Signature

CRS ID# 02-395509-00-0

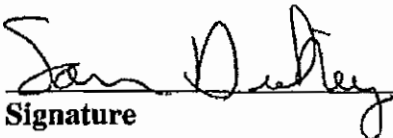
Service Category 2 Software Development

Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate (Hourly)	Products Supported
A. Software Engineer	SE1	\$76	\$86	Natural, C++, JAVA, J2EE, Visual basic, Natural for Windows, eCobol, Natural Construct, COBOL/CICS, VB.net, C#.net, ASP.net, PERL, PHP, MOS, Delphi, SQL, UNIX, Javascript, XML, Coldfusion, HTML, Flex, Silverlight, Other
	SE2	\$81		
	SE3	\$86		
B. Web Developers	WD1	\$76	\$83	
	WD2	\$78		
	WD3	\$83		
C. Software Quality Assurance Analyst	SQAA1	\$60	\$70	
	SQAA2	\$66		
	SQAA3	\$70		
D. Software Architect	Software Architect	\$105	\$105	
E. Software Tester	ST1	\$60	\$70	
	ST2	\$65		
	ST3	\$70		

Sam Dickey, Director of Business Operations
Name & Title

6-6-11

Date


Signature

Service Category 4 Project and Process Management

Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate (Hourly)	Products Supported
A. Project Management	Project Coordinator	\$60	\$95	PMP certified project managers, Agile/Scrum development experience, ITIL experience, GIS Professional Certification, Network Certifications, Microsoft Certifications, Testing/Quality certifications, Other
	PM1	\$80		
	PM2	\$90		
	PM3	\$95		
C. Functional Architect	Functional Architect	\$95	\$95	
D. Technical Writer	TW1	\$52	\$95	
	TW2	\$58		

Sam Dickey, Director of Business Operations

Name & Title

6-7-11

Date

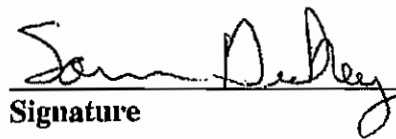

Signature

Exhibit G

Service Category 6 Geographical Information System Services

Sub-service Category	Skills	Maximum Hourly Service Rate	Training Rate (Hourly)	Products Supported
Geographic Information System Services	GIS - PA1	\$65	\$75	Esri, ArcView, ArcGIS, ArcSDE, ArcIMS, ArcWeb, ArcGIS Server, Intergraphic, Caliper, Pitney Bowes, GRASS, SAGA, API, QGIS, MapWindow GIS, ILWIS, uDig, gv SIG, JUMP GIS, Kalypso, TerraView, Capaware, FalconView, JOSM, Mapnik, GeoServer, MySQL, TerraLib, Autodesk, ERDAS, other
	GIS - PA2	\$70		
	GIS - PA3	\$75		

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Sam Dickey, Director of Business Operations
Name & Title

6-17-11
Date

Sam Dickey
Signature

Kirtland AFB Bulk Fuels Facility Spill

Regulatory Authority and Implementation of Corrective Action under RCRA

New Mexico Environment Department

<http://www.nmenv.state.nm.us>

**Albuquerque-Bernalillo County Water Utility Authority
Governing Board**

June 20, 2012

Regulatory Authority: Statutes and Regulations

- Federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq. (1976)
 - Established permitting, manifest system, and other administrative mechanisms to track and manage waste from "cradle-to-grave."
 - 1984 Hazardous and Solid Waste Amendments
 - Waste minimization and land disposal
 - Releases of hazardous waste or constituents subject to corrective action
- NM Hazardous Waste Act (HWA), NMSA 1978, §§ 74-4-1 to 74-4-14
 - Includes requirements for corrective action, including releases extending beyond a facility's boundaries
- HWA authorized promulgation of Hazardous Waste Management Regulations (HWMR), 20.4.1 NMAC
- New Mexico authorized as the administrative authority for corrective action under RCRA by EPA on January 2, 1996

Regulatory Authority: Imposed through Permit

- Kirtland AFB Hazardous Waste Facility Permit
 - Renewed on June 15, 2010; effective July 16, 2010
- Permit Part 6 contains extensive provisions for corrective action as required pursuant to 20.4.1.500 NMAC incorporating 40 CFR § 264.101
 - Primary driver for corrective action at the Facility
 - Must protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the Facility
 - Schedules of compliance
 - Must implement corrective actions beyond the Facility boundary, where necessary

Regulatory Authority: Corrective Action for SWMUs

- Corrective Action required by regulations (20.4.1.500 NMAC incorporating 40 CFR § 264.101) and imposed through Permit (Permit Part 6)
- Collectively, the "Bulk Fuels Facility Spill" made up of:
 - Solid Waste Management Unit (SWMU) ST-106 - Bulk Fuels Facility Former Fuel Offloading Rack
 - SWMU SS-111 - Light Non-Aqueous Phase Liquid ("LNAPL") plume
- ST-106 and SS-111 listed in Permit as being subject to corrective action
 - Attachment I, Table I-3

Water Quality Standards

(Required by Regulation and Imposed by Permit Condition)

- Ethylene Dibromide
 - EPA Maximum Contaminant Level (MCL) 0.05 µg/L (ppb)
 - New Mexico WQCC Standard (WQCC) 0.1 µg/l
- Benzene
 - EPA MCL 5 µg/L
 - NM WQCC 10 µg/L
- Toluene
 - EPA MCL 1 mg/L (ppm)
 - NM WQCC 0.750 mg/L
- Xylenes (total)
 - EPA MCL 10 mg/L
 - NM WQCC 0.620 mg/L

Current Status and Looking Ahead

- Project currently in investigation phase
 - Final remedy cannot be determined until investigation is complete
 - Interim measures have been required while investigation continues
 - Enough is already known to begin cleanup of vadose zone and groundwater
- Issue Remedial Action Plan (RAP) ASAP to treat groundwater generated by LNAPL Containment System (should system be deployed)
- Corrective Measures Evaluation (CME) Report required 180 days after NMED approves site characterization (Investigation Report)
- Revise RAP to incorporate final remedy based on CME Report and public input
 - Public notice to be issued to seek public input
 - A public hearing may be held
- Approve Corrective Measures Implementation (CMI) Plan for implementing final remedy
- Implement and complete final remedy

Contact Information

Jim Davis, Director
Resource Protection Division
jim.davis@state.nm.us
(505) 827-1758

John E. Kieling, Chief
Hazardous Waste Bureau
john.kieling@state.nm.us
(505) 476-6035

<http://www.nmenv.state.nm.us/HWB/kafbperm.htm>

<http://www.kirtland.af.mil/environment.asp>



*Kirtland Air Force Base
Fuel Plume
Update to
Albuquerque Bernalillo
County Water Utility
Authority Board*

*Tom Berardinelli
20 June 2012*



Overview



-
- **Timeline Overview**
 - **Toward a Final Remedy**
 - **New Monitoring Wells**
 - **Volume vs. Concentration**
 - **Contingency Planning**
 - **Questions**
-



Timeline



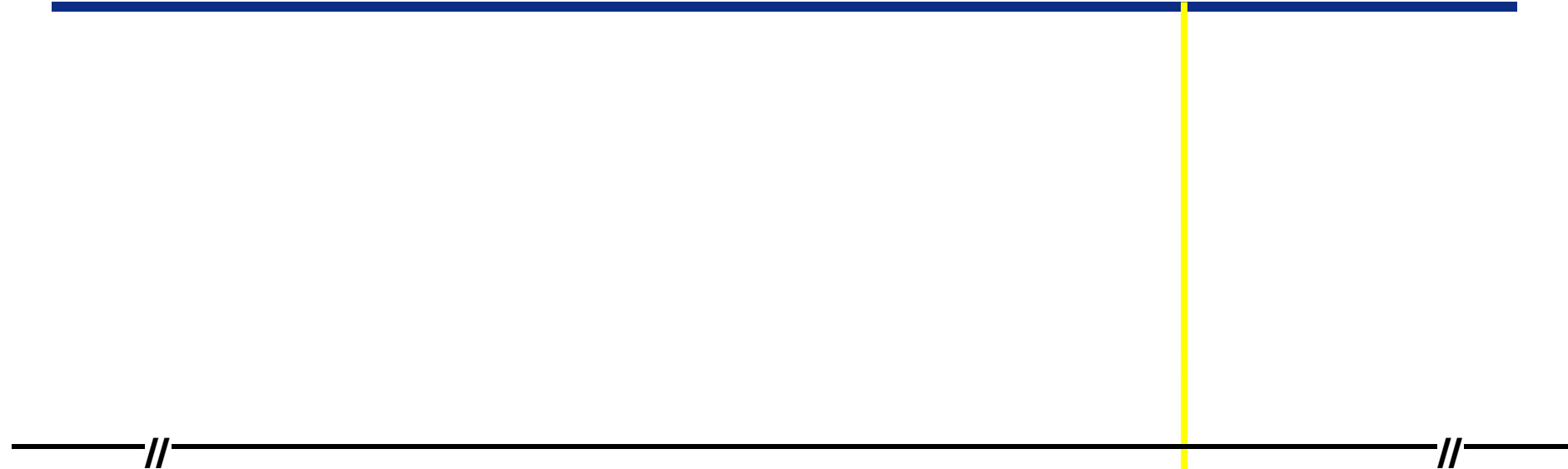
- Leak
- Characterization & Evaluation
- Treatment
- Historical/complete
- Planned Actions
- Possible actions based on data (?)



Timeline



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20 June 2012



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- Leak
- Characterization & Evaluation
- Treatment
- Historical/complete
- Planned Actions
- Possible actions based on data (?)



Timeline

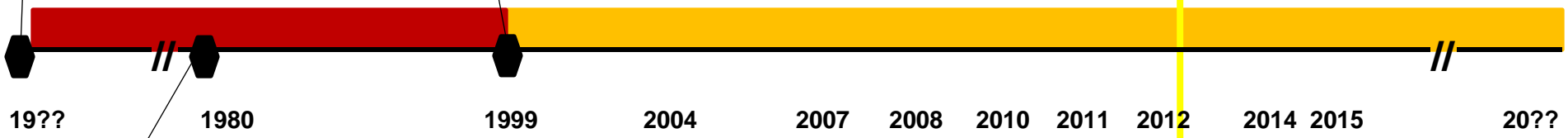


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20 June 2012

Based on evidence of lead-based AVGAS in plume (EDB), leak began sometime prior to late 70s

Leak in FFOR detected and stopped in 1999; first monitoring wells installed

AF switches from AVGAS to JP4 in late 1970s



- Leak
- Characterization & Evaluation
- Treatment
- ⬢ Historical/complete
- ⬢ Planned Actions
- ⬢ Possible actions based on data (?)



Timeline



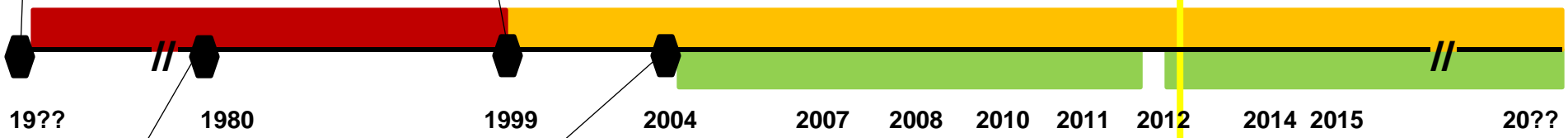
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20 June 2012

Based on evidence of lead-based AVGAS in plume (EDB), leak began sometime prior to late 70s

Leak in FFOR detected and stopped in 1999; first monitoring wells installed

AF switches from AVGAS to JP4 in late 1970s

Leak believed to be limited to soil/vadose zone in immediate vicinity of FFOR; remediation plan submitted to NMED GWQB... approved and first SVE placed in operation in 2004



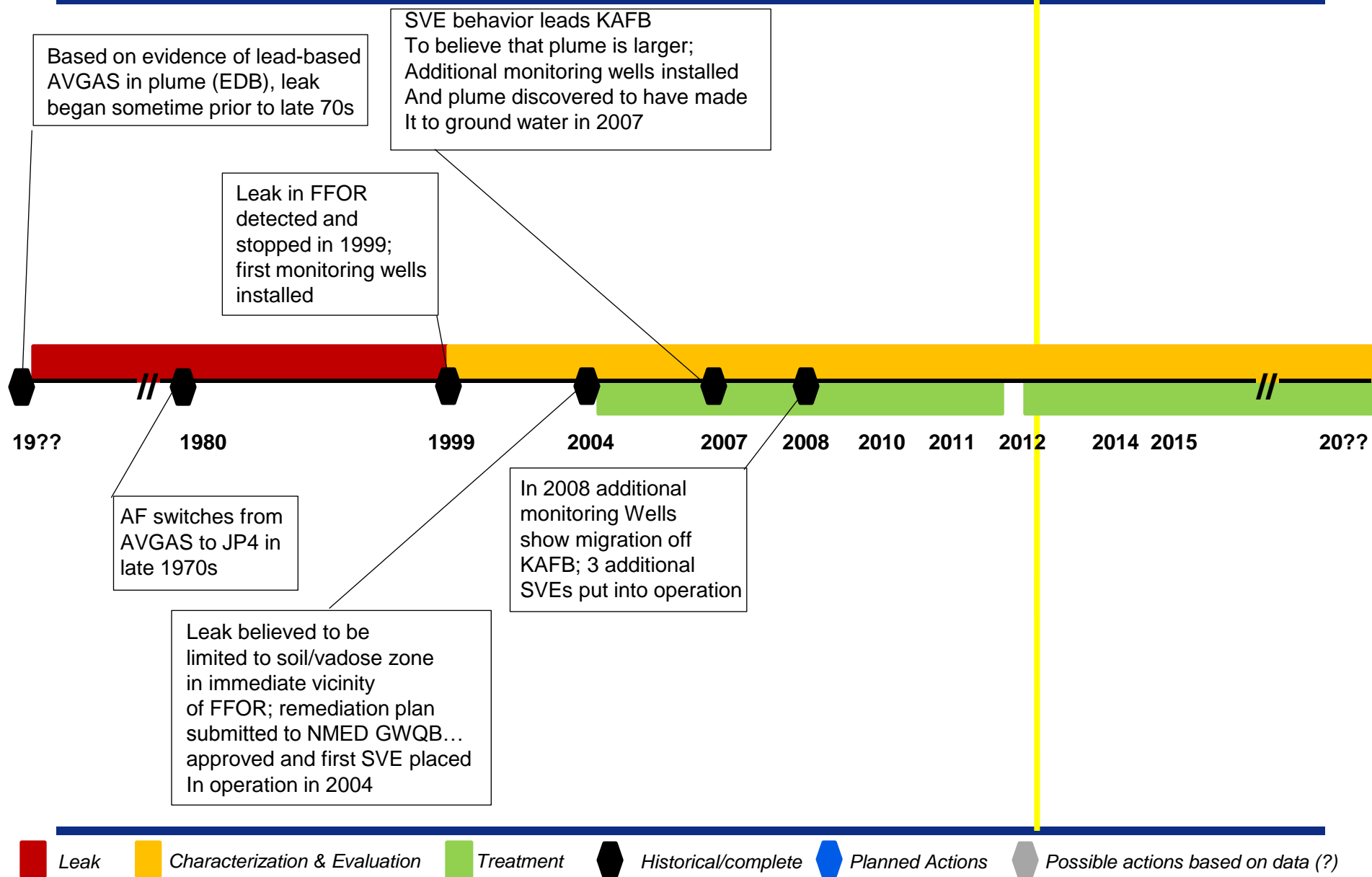
- Leak
- Characterization & Evaluation
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Timeline



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20 June 2012

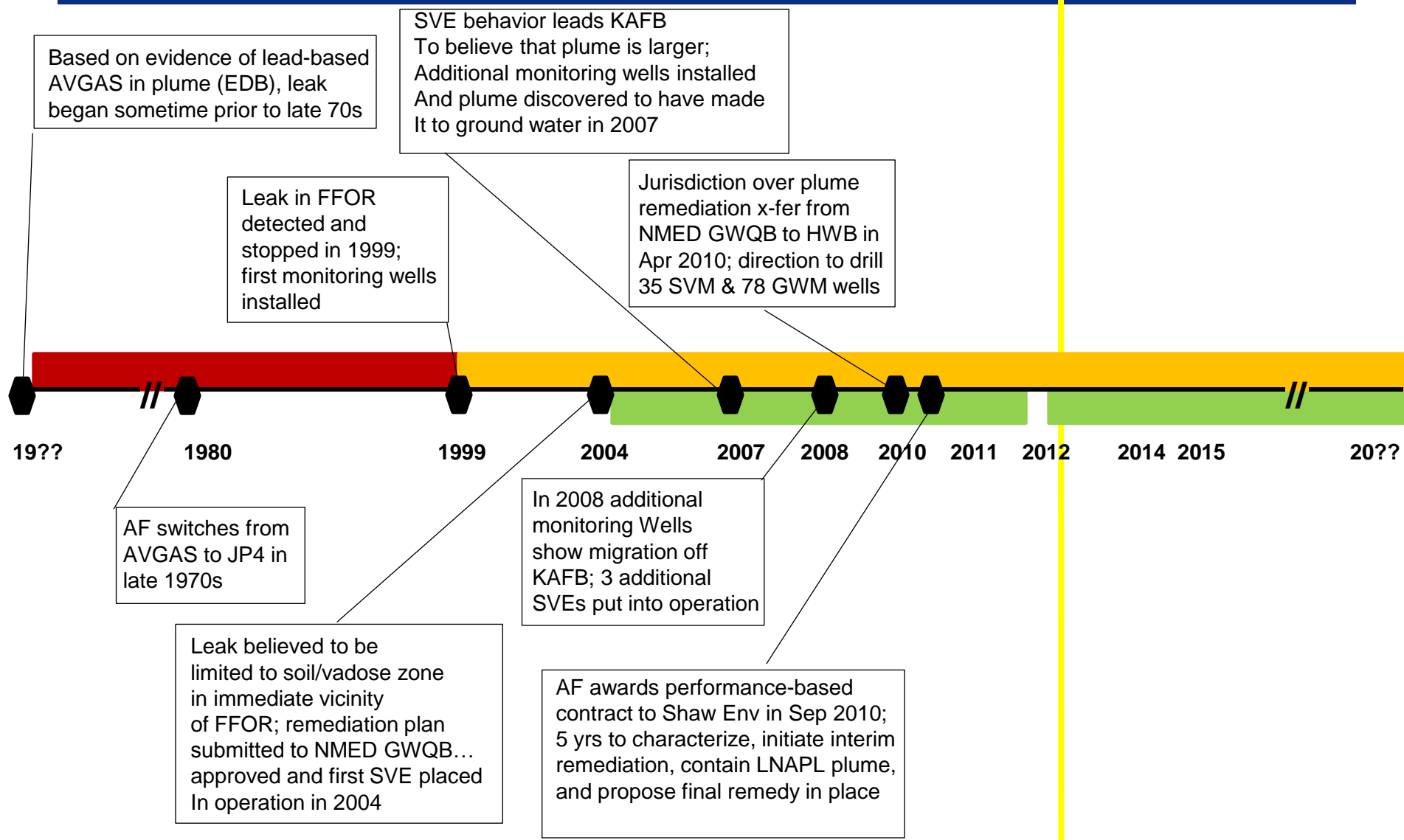




Timeline



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20 June 2012

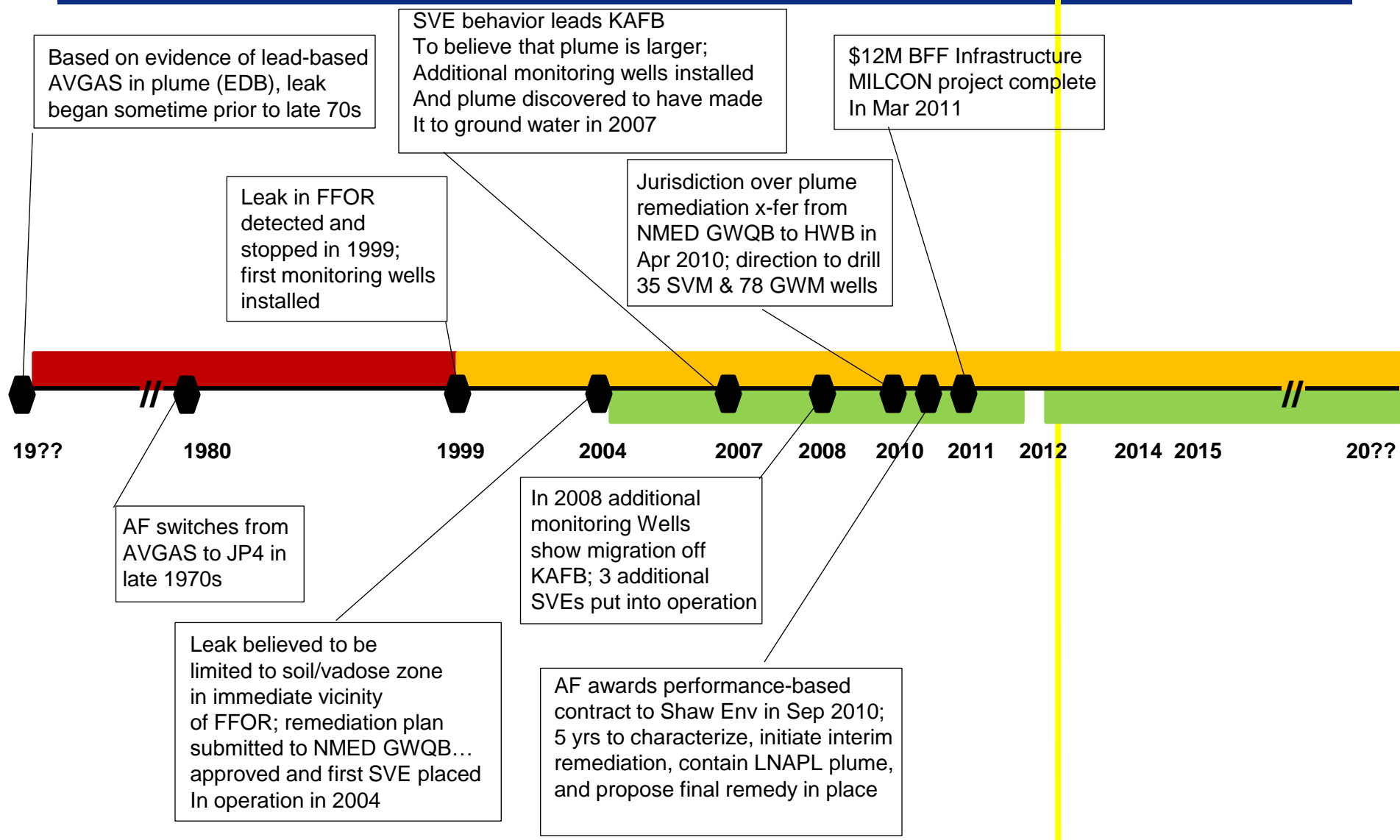




Timeline



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20 June 2012

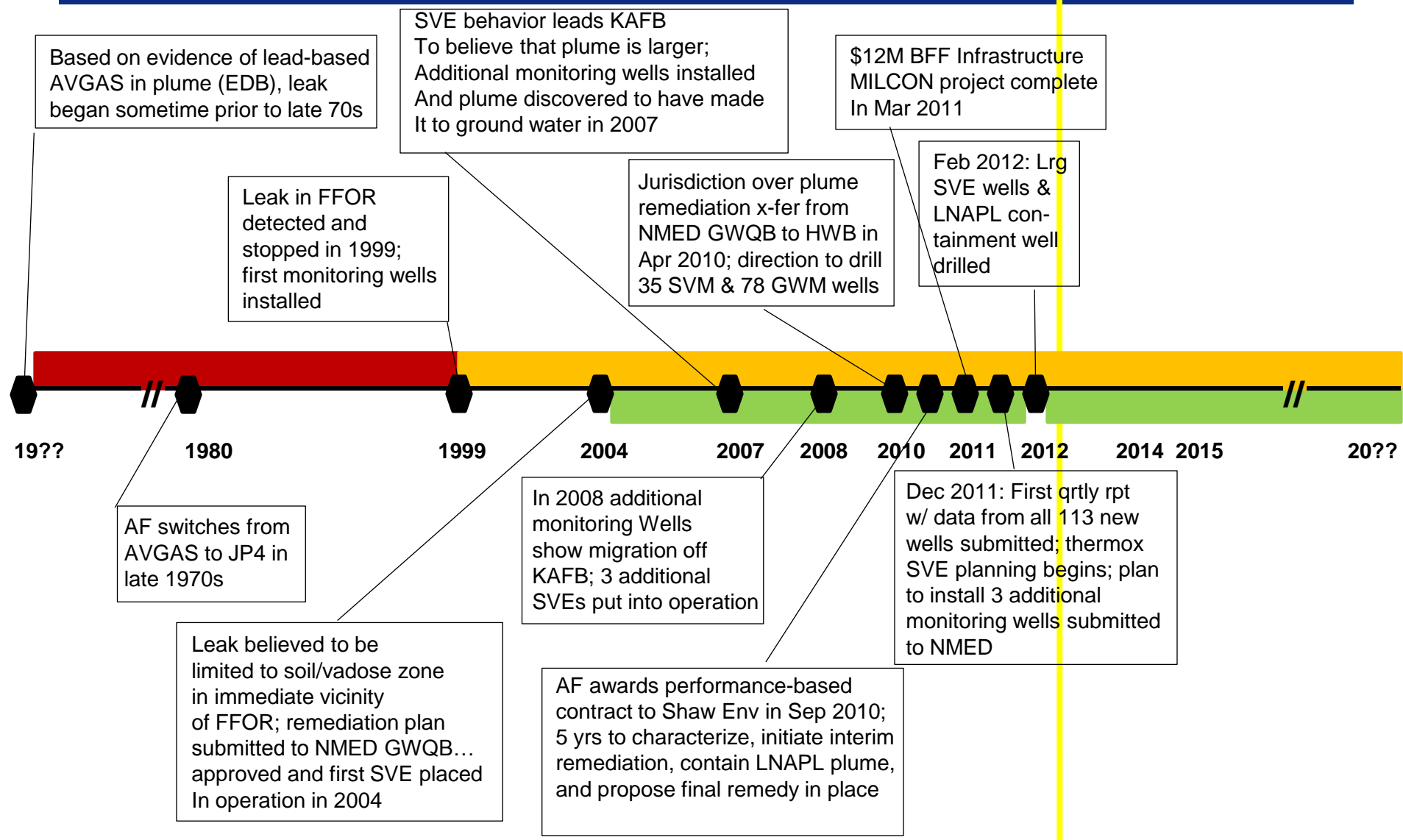




Timeline



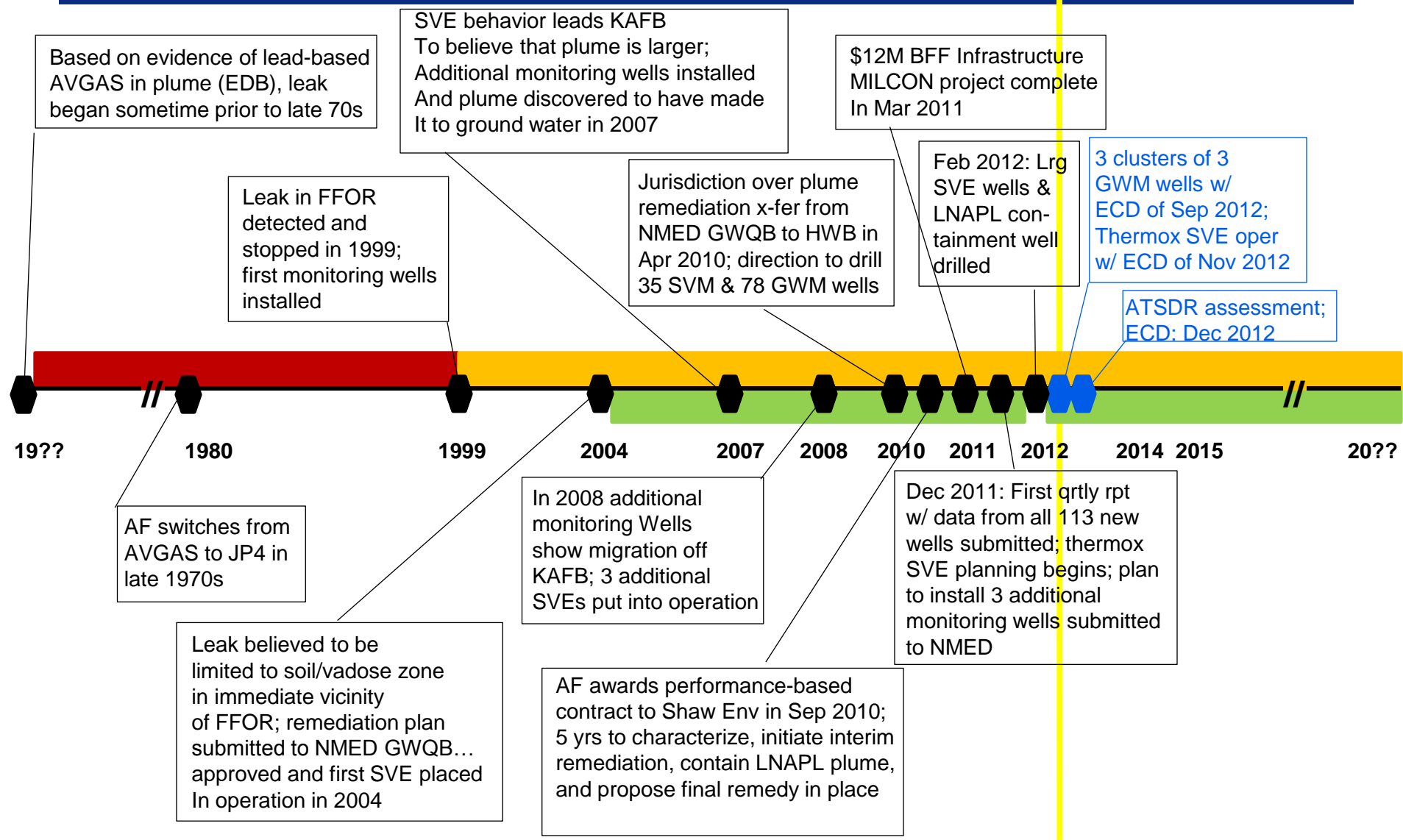
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20 June 2012





Timeline

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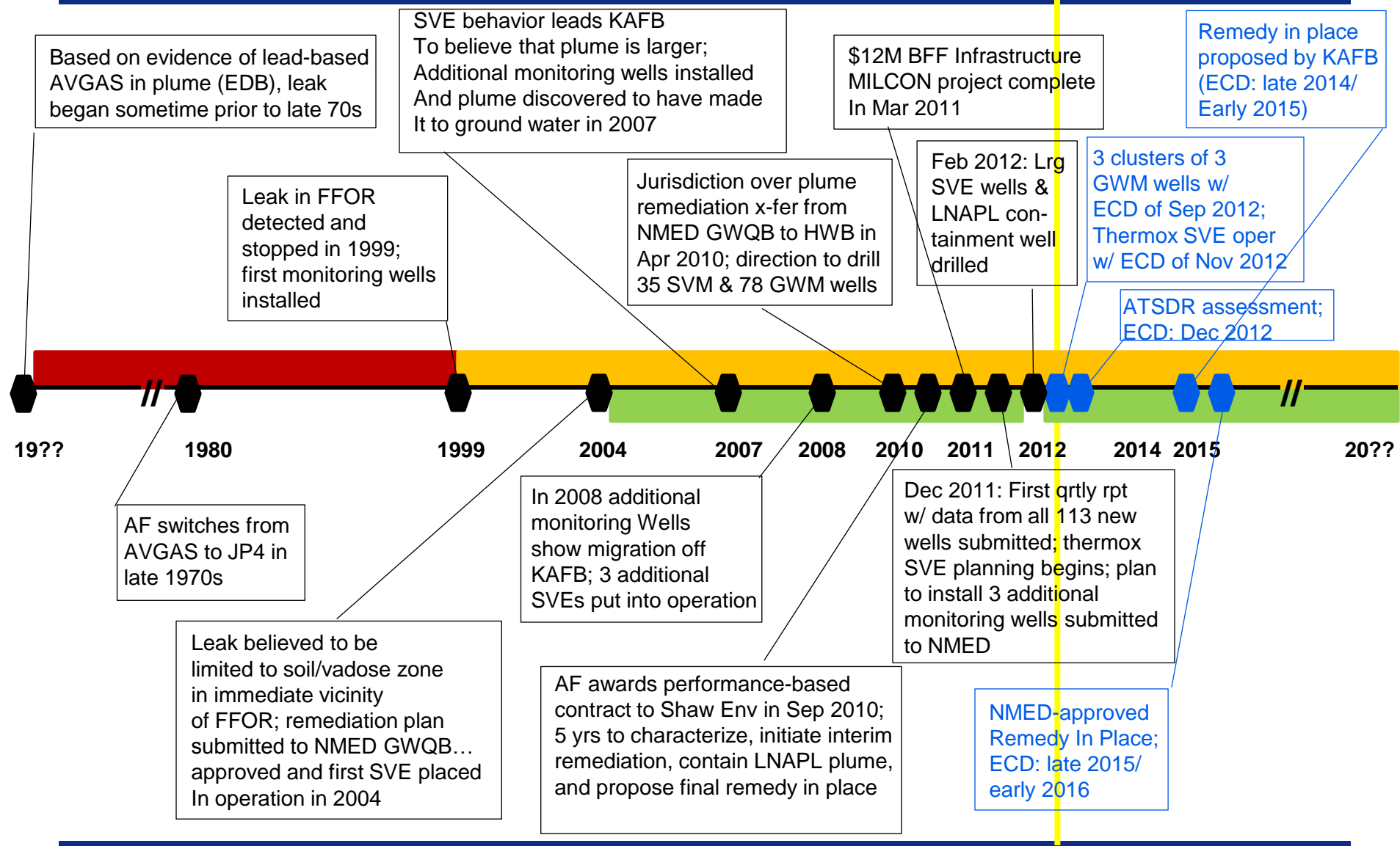




Timeline



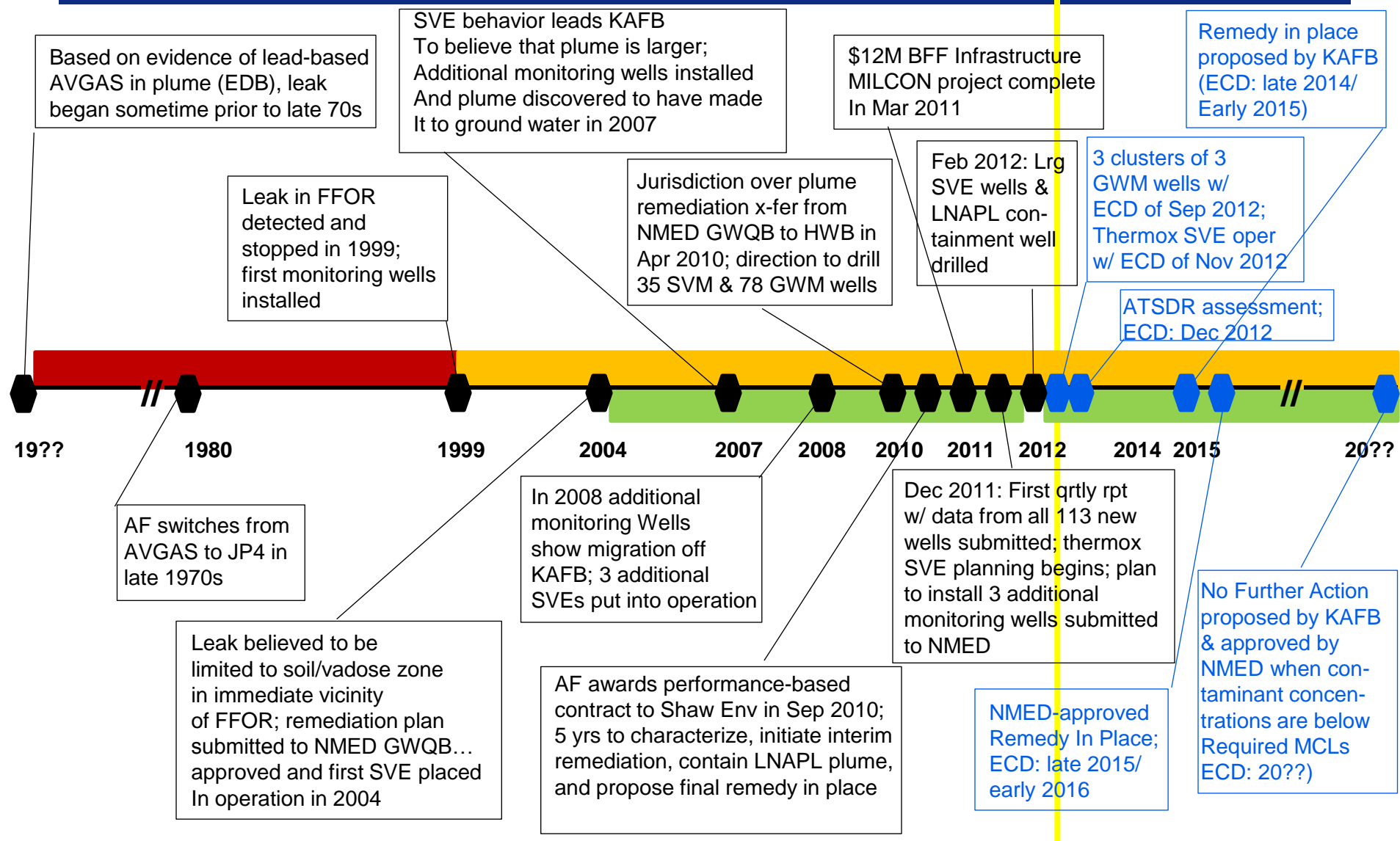
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Timeline

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20 June 2012

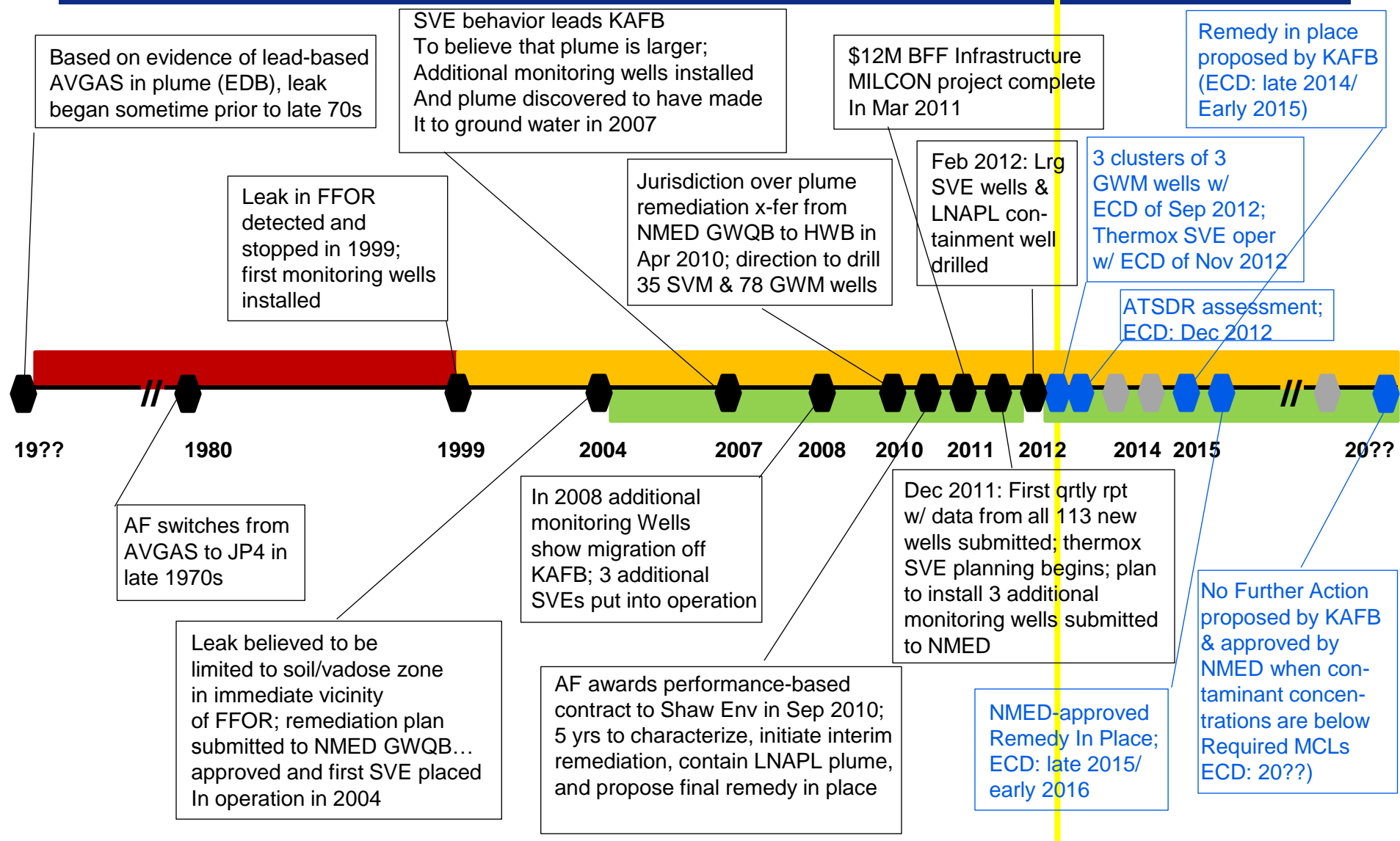




Timeline



You are here:
20 June 2012





Toward A Final Remedy



CHARACTERIZATION

RCRA Facility Investigation

- ✓ Installation of 78 Groundwater Wells
- ✓ Installation of 35 Soil Vapor Wells
- ✓ DPT Soil Samples at FFOR
- ✓ Installation of 9 Pneulog Wells
 - Installation of 9 Groundwater Wells

EVALUATION

Corrective Measures Evaluations

- ✓ Baildown Testing
- ROI Testing
- Quarterly Monitoring
- ✓ Pneulog Well Testing
- Slug Testing
- Use Phase II IM to Conduct Extended ROI Testing
- Continue to Evaluate Early Treatment

Interim Measures

- ICE Unit Operation - Pre-Remedy O&M
 - LNAPL Containment
 - Soil Removal at FFOR - Phase I Interim Measures
- SVE Treatment System - Phase II Interim Measures
- ✓ Move ICE Units to New SVE Wells
- Continue Design of Centralized SVE Treatment System

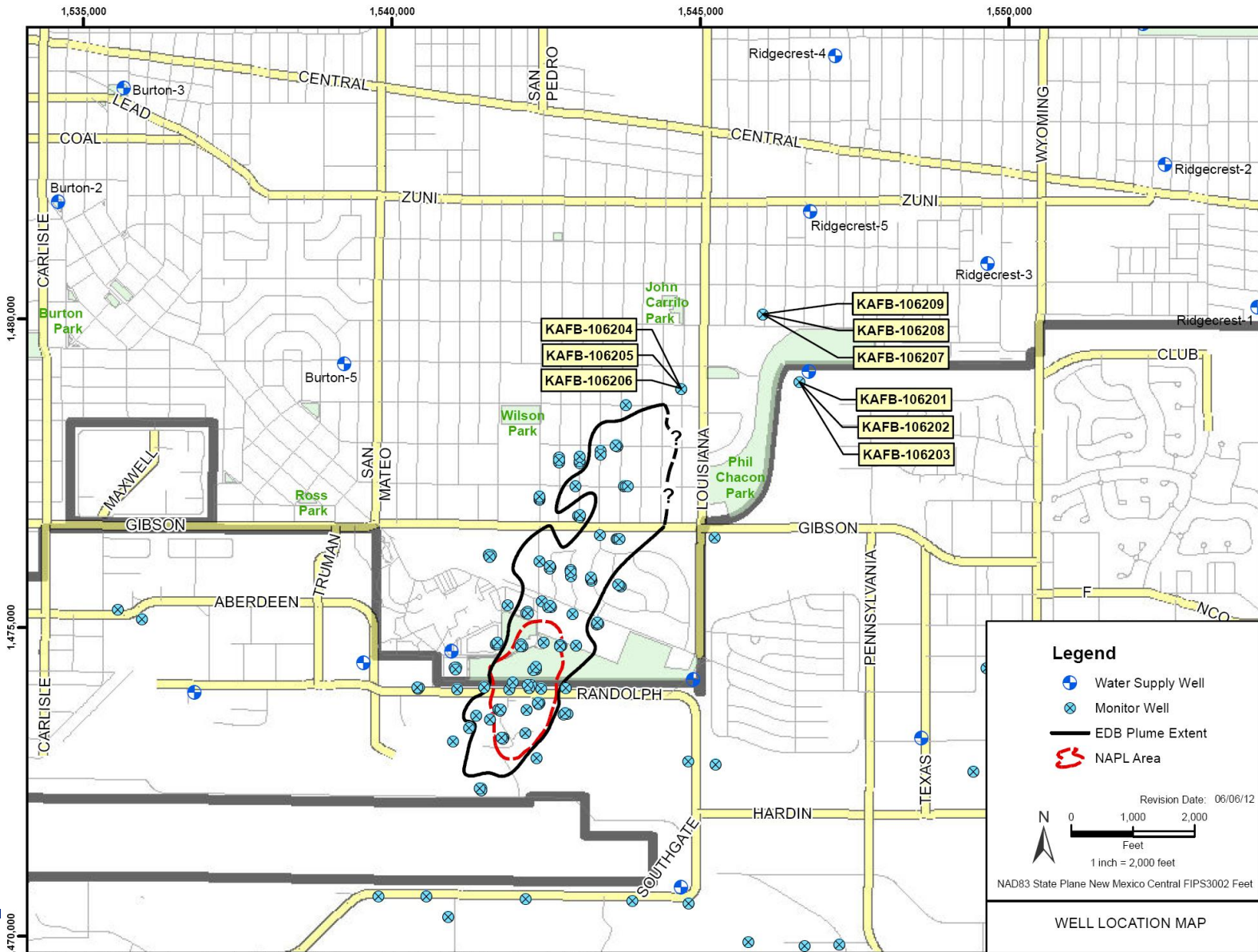
EARLY/INITIAL TREATMENT

**FINAL
REMEDY
REMEDY IN PLACE**





Groundwater Monitoring Wells July/August 2012





Volume vs. Concentration



- **Volume of fuel in Vadose Zone, LNAPL and dissolved phase are estimates only**
 - Not possible to directly measure
 - Not a primary factor in characterizing, evaluating or treating contaminants
 - Not an indicator of safe drinking water/completion of treatment
- **Concentration of contaminants in Vadose Zone, LNAPL and dissolved phase can be directly measured**
 - Necessary to characterize, evaluate and treat contaminants
 - Specific Maximum Contaminant Levels (MCL) established by law
 - Determine when “no further action” is required



Contingency Planning



- We plan/expect interim and final remedy to ensure continued safe drinking water from Ridgecrest, Kirtland, and VA wells
- Nonetheless, water providers (ABCWUA, KAFB and VA) should conduct “what if” contingency planning that addresses worst case scenarios
- ***“If contaminants from the plume enter the drinking water and make it unsafe, the Air Force will assist the City and ABCWUA in providing safe drinking water until the situation can be remedied” (ASAF Yonkers in assurance to Mayor Berry and in letters to ABCWUA and Senators Bingaman and Udall)***
- Meaningful public participation is a necessary part of any contingency planning; KAFB will work with all stakeholders and public to provide those opportunities



POINTS OF CONTACT



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(505) 846-5991

Citizens may review Air Force Environmental Restoration Program (ERP) documents at the Kirtland AFB Information Repository (IR) located at the Central New Mexico (CNM) Community College-Montoya Campus Library, 4700 Morris NE, (505) 224-5721

or

by visiting the Kirtland AFB website at <http://www.kirtland.af.mil> in the Environmental Issues section for Public Records.



Questions?



Back-Up Slides



Detailed Update



- **Acronyms**
 - **EDB plume characterization update**
 - **SVE Treatment System – current and new**
 - **Path Forward**
-



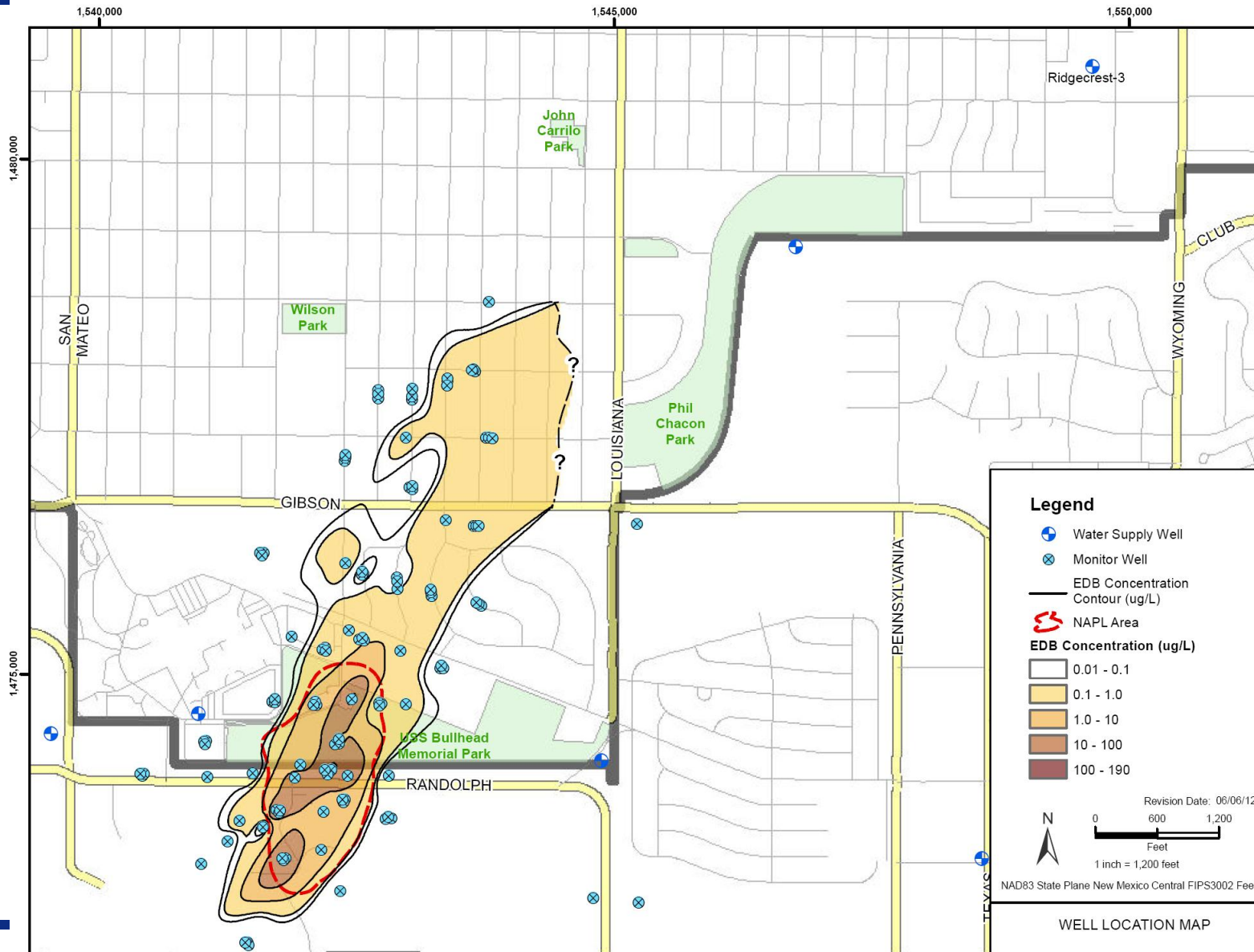
Acronyms



- **BTEX – Benzene, toluene, ethylbenzene, xylene**
- **CAB – Citizen’s Advisory Board**
- **EDB – Ethylene dibromide**
- **FFOR – Former Fuel Offloading Rack**
- **ICE – Internal combustion engine**
- **DPT – Direct Push Technology**
- **IM – Interim Measure**
- **LNAPL – Light Non-Aqueous Phase Liquid**
- **PBC – Performance Based Contract**
- **ROI - Radius of influence**
- **SMWU – Solid Waste Management Unit**
- **SVE – Soil vapor extraction**



EDB Plume September – December 2011

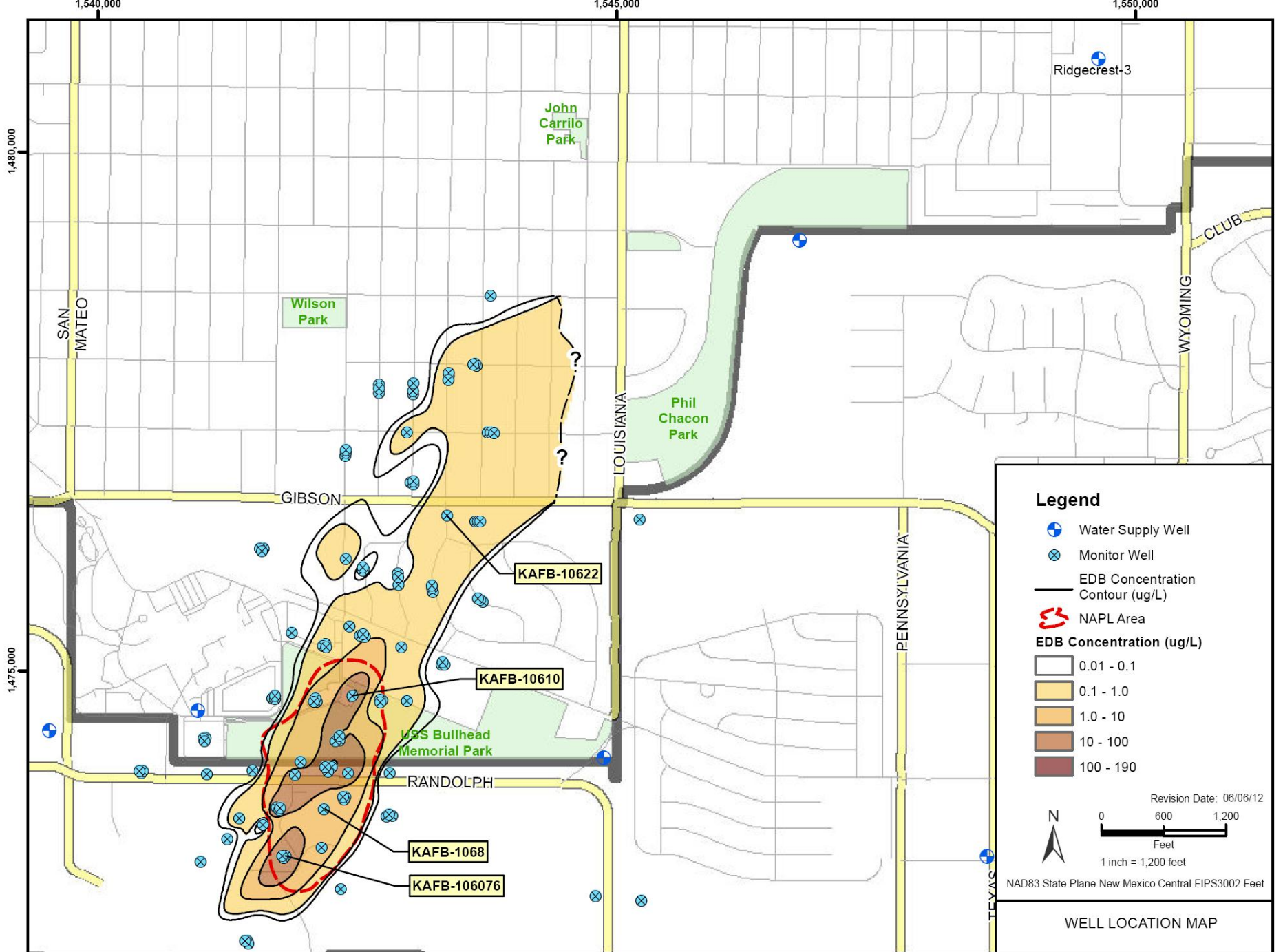




EDB Characterization



- **Letter Addendum Work Plan submitted to NMED detailing the three additional locations**
 - **Three wells per location: shallow, intermediate, and deep**
 - **Drilling tentatively scheduled to begin July 2012 at all three locations**
 - **Three drilling rigs working concurrently**
 - **Approximately six weeks per location to complete wells**
 - **Door-to-door neighborhood visits to begin mid-June with information on schedule and drilling operations**
-

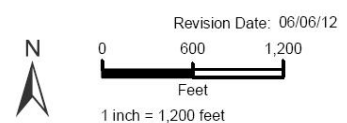


Legend

- Water Supply Well
- Monitor Well
- EDB Concentration Contour (ug/L)
- NAPL Area

EDB Concentration (ug/L)

- 0.01 - 0.1
- 0.1 - 1.0
- 1.0 - 10
- 10 - 100
- 100 - 190



NAD83 State Plane New Mexico Central FIPS3002 Feet

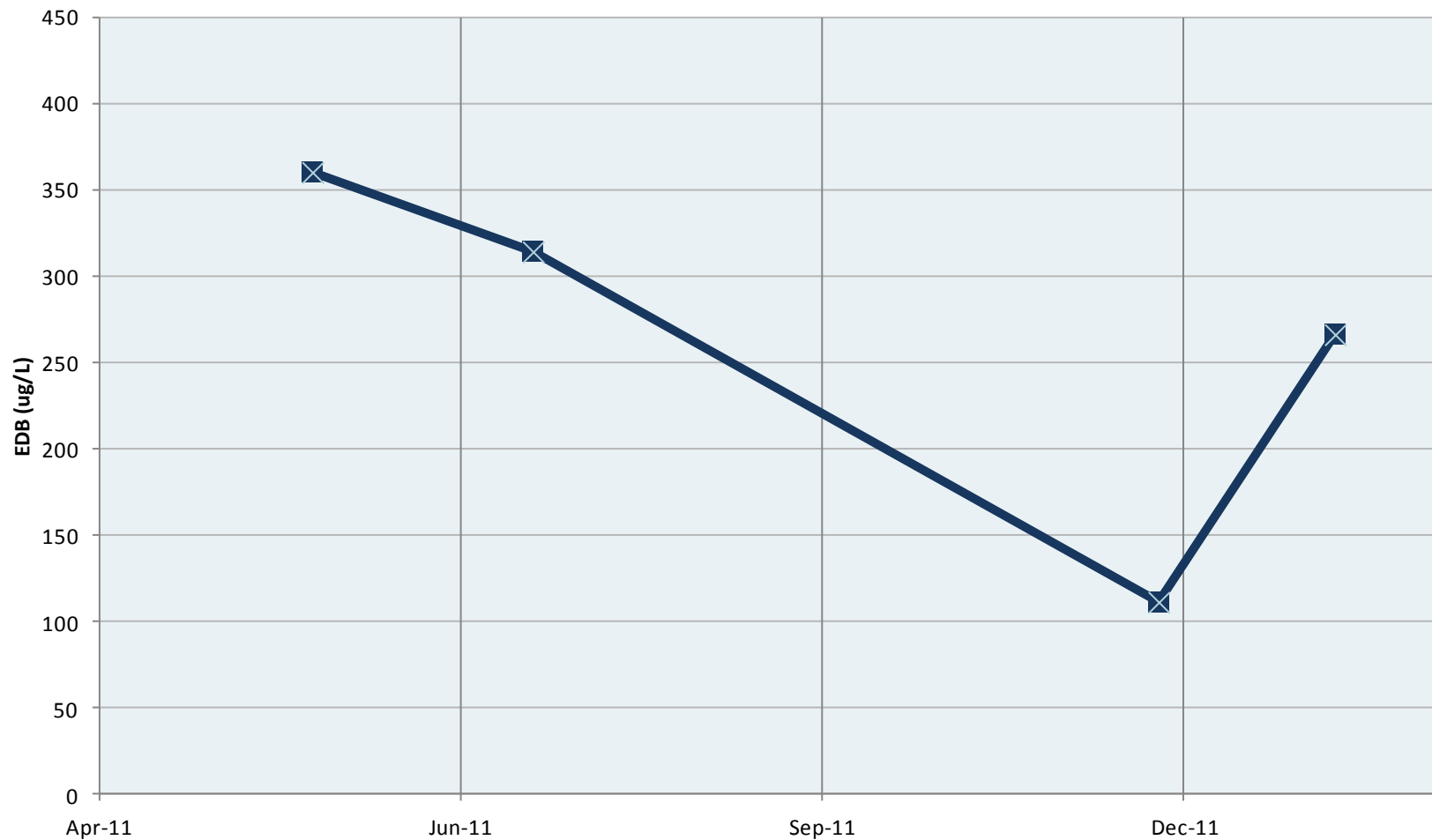
WELL LOCATION MAP



EDB In Groundwater



KAFB-106076

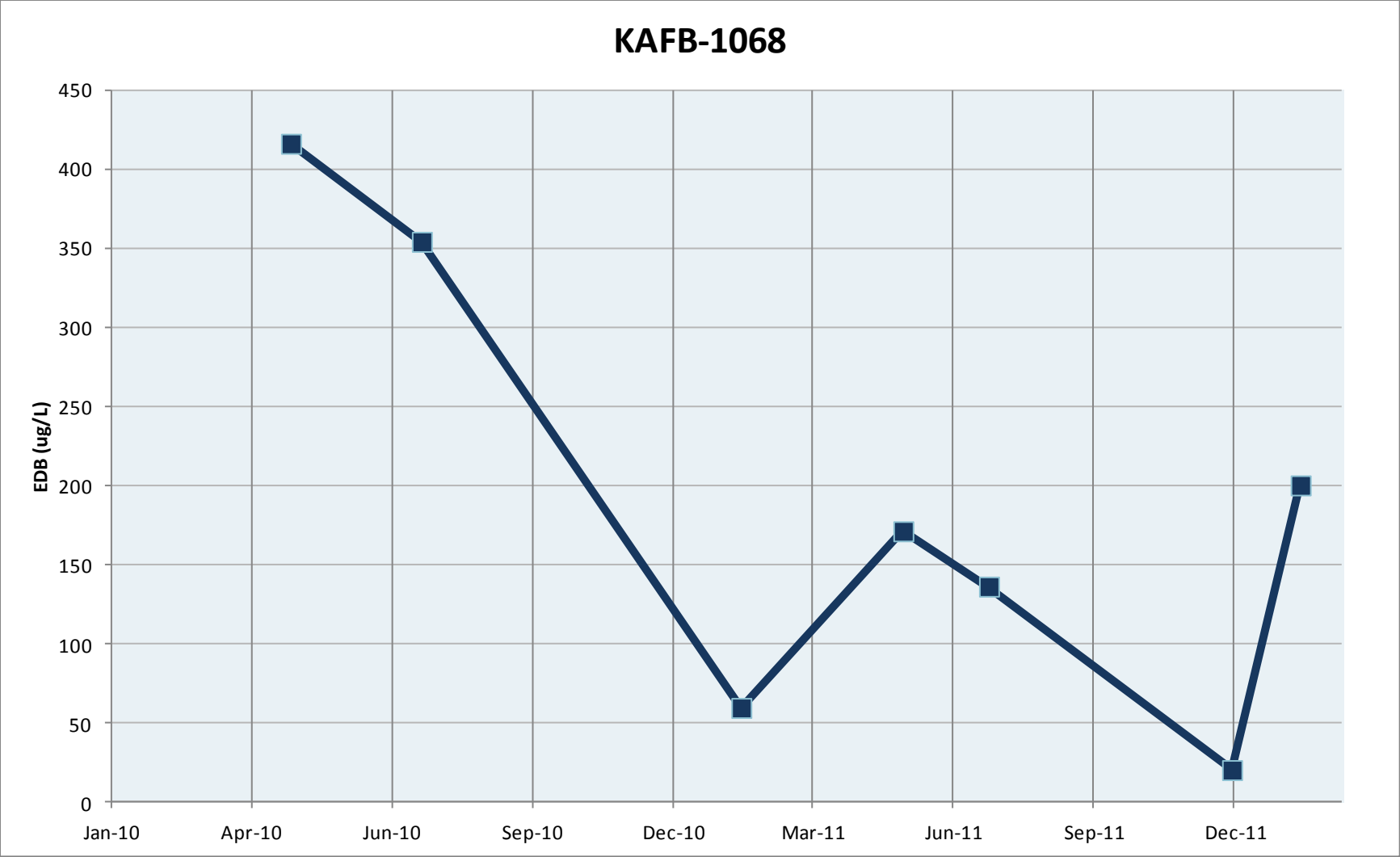




EDB In Groundwater



KAFB-1068





EDB In Groundwater



KAFB-10610

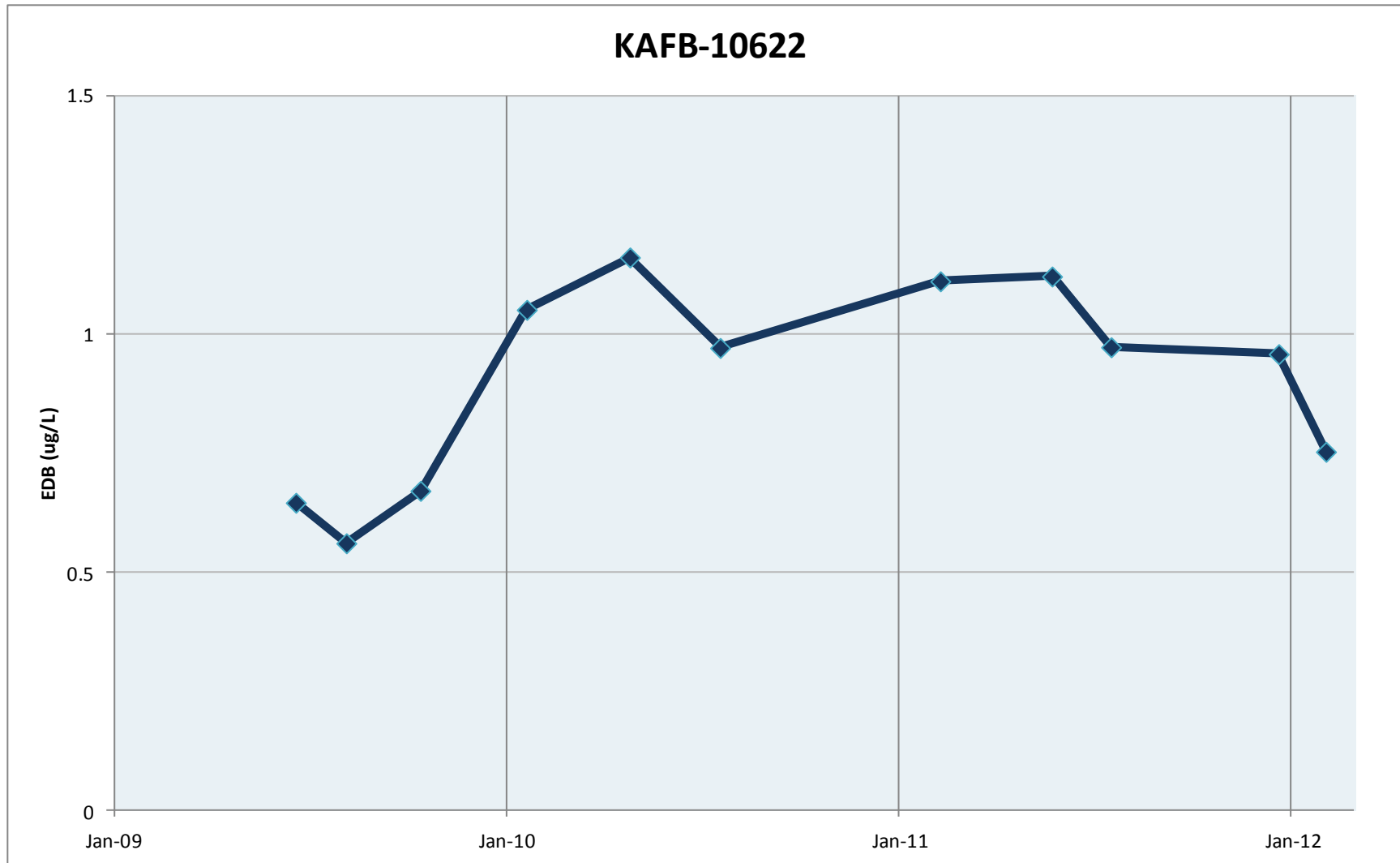




EDB In Groundwater



KAFB-10622





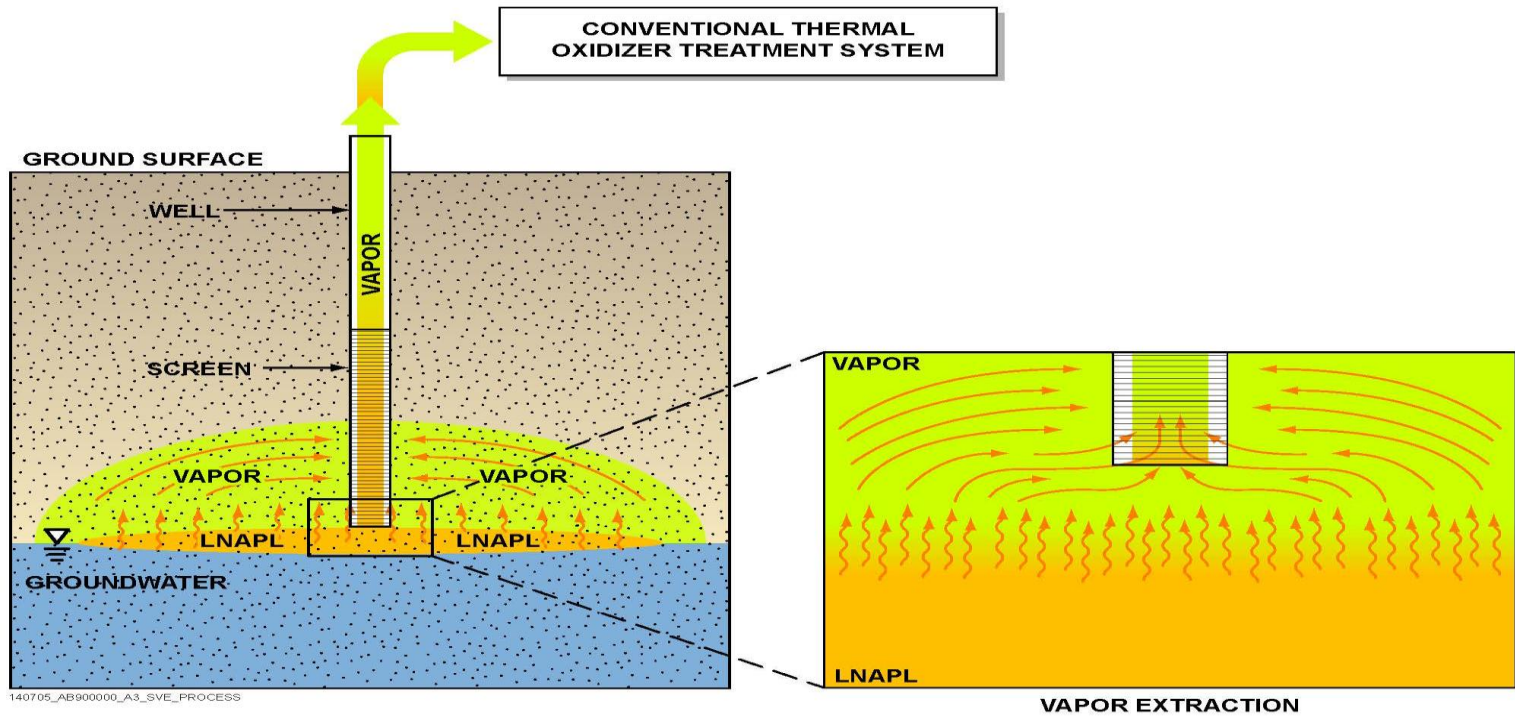
Phase II Interim Measure



- **SVE ICE units resumed operation on 23 April 2012**
 - **Moved to new locations to optimize efficiency of treatment**
- **Removed an estimated 32,000 gallons of fuel since resuming operation (April 23 – May 31, 2012)**
- **Submitted letter addendum to NMED for approval of main SVE treatment system components**
- **New treatment system estimated completion date of November 2012 – will expedite process if able**
- **Process flow for the new treatment system will be approximately 10 times more volume compared to current system**
- **Data from new system will be incorporated into evaluation of final remedy**



SVE Treatment 101





Path Forward



Task/Milestone	Schedule
Installation of additional groundwater monitoring wells	July/August 2012
Finalize SVE treatment system design (submit to NMED)	Summer 2012
SVE treatment system begins operation	Fall/Winter 2012
Complete soil removal at FFOR	August 2012
