

## AGREEMENT

THIS AGREEMENT, made and entered into this 27<sup>TH</sup> day of JULY, 2017, by and between the County of Bernalillo, New Mexico, a political subdivision in the State of New Mexico, (hereinafter referred to as the "County"), and Shoats & Weaks, Inc., (hereinafter referred to as the "Contractor").

### WITNESSED:

WHEREAS, the County issued a Request for Proposals for County Lobbyist Services (State of NM), RFP No. 35-17NL, attached hereto as Exhibit A; and

WHEREAS, the Contractor submitted its Proposal, dated June 8, 2017 in response to RFP No. 35-17-NL, attached hereto as Exhibit B; and

WHEREAS, the County desires to engage the Contractor to render certain services in connection therewith, and the Contractor is willing to provide such services.

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

1. Scope of Services

Pursuant to Exhibit A and Exhibit B all of which are incorporated herein by reference and made a part of this Agreement, the Contractor shall provide County Lobbyist Services (State of NM) to Bernalillo County.

2. Term

This Agreement shall become effective upon the date of final execution and shall continue for a four (4) year period unless terminated by either party pursuant to the termination provisions contained herein.

3. Use of Agreement

With the consent of the Contractor, other Central Purchasing Sections (NMSA 1978, §13-1-37) may purchase under this Agreement, provided that the services are under the same terms and conditions as stated herein, unless a lower price is agreed to between the Central Purchasing Section and the Contractor.

4. Termination for Cause

If, through any cause, the Contractor fails to fulfill the Contractor's obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, agreements or stipulations of any part of this Agreement, the County shall have the right to terminate the Agreement. The County reserves the right to recover any excess costs incurred by deduction from an unpaid balance due to the Contractor, or any other legal method. Cancellation shall be done by giving written Notice of Cancellation to the Contractor. The Notice of Cancellation shall include the effective date of cancellation.

The official address of the County is:

The County Purchasing Section  
One Civic Plaza NW, Room 10010  
Albuquerque, NM 87102

The official address of the Contractor is:

Shoats & Weaks, Inc.  
9629 4<sup>th</sup> Street, NW  
Albuquerque, NM 87114

5. Termination for Lack of Appropriations

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

6. Termination for Convenience of County

The County may terminate this Agreement at any time by giving at least thirty (30) calendar days notice in writing to the Contractor. If the Agreement is terminated by the County as provided herein, the Contractor will be paid in the 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 previously made.

7. Termination by Contractor

The Contractor may terminate this Agreement on an annual basis at the expiration of each year of the term of this Agreement by giving written notice to the County at the address listed herein at least sixty (60) calendar days prior to the expiration of each year of the term of this Agreement. The expiration of each year for termination purposes shall be defined as 365 days from the date of execution of this Agreement and every 365 days thereafter for the term of this Agreement.

8. Compensation and Method of Payment

A. The County will pay to the Contractor an annual fee of \$80,000.00 for all services rendered, listed in Exhibit B, attached hereto, plus applicable New Mexico Gross Receipts Tax, which constitutes 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: Upon completion of work in a manner satisfactory to the County, and upon receipt by the County of a properly documented invoice, payment to the Contractor will be made within thirty (30) days from receipt of the invoice. Except as otherwise agreed to, late payment charges may be assessed against the County in the amount and under the conditions set forth in NMSA 1978, §13-1-158.

C. Invoices: Invoices shall be mailed, faxed, or e-mailed to: Bernalillo County Accounts Payable Office, One Civic Plaza NW, Albuquerque, New Mexico 87102, Fax Number (505-468-7201) or E-Mail Address: [accountspayable@bernco.gov](mailto:accountspayable@bernco.gov).

9. Independent Contractor

Neither the Contractor nor its employees are considered to be employees of the County for any purpose whatsoever. The Contractor is considered to be an Independent Contractor at all times in the performance described herein. The Contractor further agrees that neither it nor its employees are entitled to any benefits from the County under the provisions of the Worker's Compensation Act of the state of New Mexico, or to any of the benefits granted to employees. The Contractor shall not accrue leave, retirement, workers' compensation benefits, insurance, bonding, use of County vehicles, or any other benefits afforded to employees of the County, as a result of this Agreement. The County shall provide no liability coverage to the Contractor. The Contractor acknowledges that all sums received hereunder are reportable for income tax purposes as applicable for self-employment or business income, and New Mexico Gross Receipts Tax.

10. Personnel

A. The Contractor represents that it has, or will secure at its own expense, all personnel required in performing the services as described under this Agreement. Such personnel shall not be employees of or have any contractual relationships with the County.

B. The services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in performing the services shall be fully qualified and shall be authorized or permitted under federal, state and local laws to perform such services.





19. Scope of Agreement

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written agreement. No prior agreement or understandings, verbal or otherwise, of the parties, or their agents shall be valid or enforceable unless embodied in this Agreement.

20. Notice

Any notices required to be given hereunder shall be sent to the principals at the addresses specified in Section 4 herein. If either party shall change addresses or principals, then such party shall promptly notify the other party in writing. If no notification is made, then notice shall be deemed effective if sent to the principals at the addresses specified in Section 4 herein.

21. Pay Equity Reporting

If, this Agreement extends beyond one (1) calendar year, or is extended beyond one (1) calendar year, the Contractor must agree to complete and submit the required "Pay Equity Reporting Form" within thirty (30) calendar days of the anniversary date of the execution of the Agreement.

22. Code of Conduct

The Contractor agrees to abide by the Code of Conduct ([www.bernco.gov/code\\_of\\_conduct](http://www.bernco.gov/code_of_conduct)) of the County as it applies to Contractor's interactions with the County. Any violation of the Code of Conduct shall be considered a breach of this Agreement.

23. Compliance with Applicable Law

Contractor shall comply with all applicable state, federal, municipal and county laws, rules and ordinances.

24. Waiver

No waiver of any breach of any of the terms or conditions of this Agreement shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid or binding unless the same shall be in writing and signed by the party alleged to have granted the waiver.

25. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and regulations pertaining to equal employment opportunity. If Contractor is found to be not in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

26. Applicable Law

This Agreement shall be governed by the laws of the state of New Mexico.

27. Changes

The County may, from time to time, request changes in the Scope of 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 County and the Contractor, shall be incorporated in written amendments to this Agreement. This Agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto.

28. 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 County thereto.

29. 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.

30. Enforcement

The Contractor agrees to pay to the County all costs and expenses including reasonable attorney's fees incurred by the County in exercising any of its rights or remedies in connection with the enforcement of this Agreement.

31. Penalties

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

32. 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.

33. Approval Required

This Agreement shall not become effective or binding until approved by the Bernalillo County Commission or designee.

34. Facsimile/Electronic Signature

A signature sent by facsimile or electronically shall have the same legal effect as if the original has been signed in person. This provision will apply to all documents associated with this Agreement.

IN WITNESS WHEREOF, the County and the Contractor have executed this Agreement as of the last date of execution shown below.

APPROVED AS TO FORM

[Signature] 7-25-17  
for County Attorney Date

BERNALILLO COUNTY

[Signature] 7-27-17  
County Manager Date

CONTRACTOR

[Signature] 7/14/17  
Signature Date

By:

President  
Title

02-231242000  
NM Taxpayer Identification Number

85-0407003  
Federal Taxpayer Identification Number