

Bernalillo County
Request for Proposal # 20-22-AS
Multi-Unit On-Call Landscape Construction Services



Non-Mandatory Pre-proposal MS Teams Meeting: 10:00 am (local time) on November 10, 2021

Deadline for Receipt of Proposals: December 1, 2021: 4:00 p.m. (Mountain Time)

The County eProcurement System will not allow Proposals to be submitted after this date and time.

Prepared by: Anthony Serna Sanchez
Bernalillo County
Purchasing Section
November 2021

TABLE OF CONTENTS

	Page
Table of Contents	2
Introduction	3
Definitions	3
Section 1 Instructions to Offerors	6
Section 2 Terms and Conditions	13
Section 3 Job Orders	18
Section 4 Scope of Services	21
Section 5 Proposal Format	34
Statement of Qualifications	36
Section 6 Evaluation of Offers	56
Section 7 Subcontractor's Fair Practices Act Compliance	59
Section 8 Cost Proposal	60
Section 9 Sample Agreement	61
Appendix A Final Rankings	82
Appendix B Application of Preference	83
Appendix F Agreement, Insurance and Bonding Certification Bond Form	68
-Sample Surety Prequalification Reference Letter	69
-Performance Bond	70
-Labor and Material Payment Bond	72
Appendix G Sample Forms	73
-Job Order Authorization Form	74
-Sample Base Lump Sum Job Order Offer Form	76
-SFPA-1 Form / Subcontractor Listing	78
-Supplemental Subcontractors List	79
-Sample Sign Format	80
Appendix H Checklist	81

APPENDICIES BELOW ARE REFERENCED IN THIS RFP AND UPLOADED SEPARATELY

Appendix C Submittal Letter Form	
Appendix D Campaign Contribution Disclosure Form	
Appendix E Unfair Business Practices Disclosure Form	

GENERAL INFORMATION

INTRODUCTION/PURPOSE: The Bernalillo County Parks and Recreation Department (BCPR) is responsible for the planning, design, construction, and maintenance of parks, recreation and open space facilities throughout unincorporated Bernalillo County. In addition to maintaining parks, recreation and open space facilities, the BCPR Land Management Section is also responsible for maintaining irrigation and landscaping at various County buildings. While maintenance is typically funded from the County's general fund, planning, design and construction may be funded through the general fund, general obligation bonds, State of New Mexico capital outlay, County impact fees, and grants that the County may apply for from time-to-time. Past projects constructed by BCPR using on-call landscape construction contracts include baseball/softball fields, soccer/football fields, neighborhood parks, park irrigation systems, open space trails and trailheads, and landscaping, shade structures and site furnishings at libraries and community centers. The purpose of this Request for Proposal (RFP) is to solicit competitive sealed proposals for the purpose of qualifying one primary and one secondary landscape construction firms (successful Offerors). Unit pricing shall be established for each item, and quantities shall be determined on a per project basis.

DESCRIPTION OF CONSTRUCTION SERVICES: The construction services referenced within this request for proposals are intended to address landscaping and related infrastructure improvements, and general maintenance at parks, athletic fields, roadway medians, trails, parking lots, open space properties, public buildings, and other County facilities. These landscape construction services include, but are not limited to, general maintenance, utilities, asphalt, concrete, lighting, fencing, masonry landscape walls, stonework, shade structures, grading and drainage, parking, aggregate, artificial and natural sod turf, reclamation seeding, grasses, shrubs, trees, irrigation, site furnishings, and amenities.

DEFINITION OF TERMINOLOGY: Definitions that are used throughout this Request for Proposals (RFP), including appropriate abbreviations are as follows:

“Addendum” and/or “Addenda” shall mean a change, addition or supplement to the information provided in this RFP document.

“Agreement” shall mean a duly executed and legally binding contract.

“Confidential” shall mean confidential financial information concerning Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7 or as provided by the Confidential Materials Act (14-3A-1, 1978 14-3A-2 NMSA 1978), and as otherwise provided by law. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

“Contractor(s)” shall mean successful Offeror(s).

“Contract” is used synonymous with Agreement.

“Contract Documents” shall consist of the executed Agreement; General and Supplementary Conditions; Job Order Project Forms; SFPA-1 Form/Subcontractor Listing; Supplemental Subcontractors List; Labor & Material Bonds; COA Technical Specifications (latest edition); NMDOT Special Provisions; Project Drawings; NMDOT Supplemental Specifications; NMDOT Standard Specifications for Highway and Bridge Construction (latest edition); Purchase Order.

“County” shall refer to the County of Bernalillo, New Mexico.

“County Purchasing Section” means the purchasing agent for the County of Bernalillo, New Mexico, or a designated representative thereof.

“Desirable” means the terms “may,” “can,” “should,” “preferably,” or “prefers” identifies a desirable or a discretionary item or factor for the Department to determine.

“Determination” means the written documentation of a decision of a procurement manager including findings of fact required supporting a decision. A determination becomes part of the procurement file to which it pertains.

“Evaluation Committee” means a body appointed to perform the evaluation of Offerors’ proposals.

“Evaluation Committee Report” means a report prepared by the Procurement Manager on behalf of the Selection Committee that contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

“Finalist” is defined as an Offeror who meets all the mandatory specifications of the RFP and whose score on evaluation factors is sufficiently high to qualify that Offeror for further consideration by the Selection Committee.

“General Conditions” is defined as the portion of the contract document in which the rights, responsibilities, and relationships of the involved parties to that contract.

“Local Business Preference” means a business that holds a valid Resident Business/Contractor certificate from the New Mexico Taxation and Revenue Department and maintains its principal office and place of business in Bernalillo County, which is staffed and open to the public on a regular basis, subject to verification by the County pursuant to §13-1-22 NMSA 1978 and Ordinance §2-367.

“Mandatory” means the terms “must,” “shall,” “will,” “is required,” or “are required,” identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offerors proposal, without exception.

“Minor Technical Irregularities” means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

“Notice of Award” shall mean a formal written notice by the Purchasing Department.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Ordinance” means the Bernalillo County Procurement Ordinance, Chapter 2, Article V, Division 1 – 3 (§2-356 through 2-402).

“Owner” is synonymous with the County.

“Pay Equity Preference” means any business that maintain a zero percent (0%) deviation between the salaries paid to men and salaries paid to women for comparable positions, as reported in the Pay Equity Reporting form that has been submitted by the Offeror.

“Preference Limitations” means the total amount of all preferences applied including the applicable State of New Mexico preferences, for the purchase of Tangible Personal Property, Services or Construction in any single award shall not exceed 15%, with the limit on State of New Mexico preferences as set forth under the New Mexico State Procurement Code. When applying the Bernalillo County preferences as set forth in Ordinance §2-367, the total dollar amount of Bernalillo County preferences shall never exceed \$150,000.00.

“Procurement Manager” means the person or designee authorized by the Purchasing Department to manage or administer procurements requiring the evaluation of competitive sealed proposals.

“Purchase Order” means the document, which directs a contractor to deliver items of tangible personal property or services pursuant to an existing Agreement.

“Request for Proposals” or “RFP” means all documents, including those attached or incorporated by reference, used for soliciting proposals.

“Resident Business” means a business that has a valid resident business certificate issued by the New Mexico Taxation and Revenue Department pursuant to §13-1-22 NMSA 1978 and Ordinance §2-367 but does not include a resident veteran business.

“Resident Veteran Business” means a business that has a valid resident veteran business certificate issued by the New Mexico Taxation and Revenue Department pursuant to §13-1-22 NMSA 1978 and Ordinance §2-367.

“Responsible Offeror” means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

“Responsive Offer” or “Responsive Proposal” means an offer or proposal, which conforms in all material respects to the requirements set forth in the request for proposals, including all mandatory requirements. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

“Selection Committee” means a team established to evaluate proposals, conduct interviews, and assist with negotiations during proposal evaluation for a specific product or services. Teams typically represent the functional areas to be addressed in the discussions. The Procurement Manager shall provide only technical assistance requested by the committee.

“Small Business Preference” means a business that has a Local Business Preference eligibility documentation as well as an affidavit from a Certified Public Accountant (CPA) affirming that the business employs an average of fewer than 50 full-time employees in a calendar year. Ordinance 2-367.

“Statement of Qualifications” means the forms included as part of this RFP, which all Offerors must complete, including all attachments (**See pages 37 to 56**).

“Supplementary Conditions” means the part of the contract that amends or supplements the General Terms and Conditions.

“User Department” means a County department, office, unit or staff member for which procurement services are provided.

SECTION I
INSTRUCTIONS TO OFFERORS

- 1.1 RFP Number and Title:** RFP # 20-22-AS, Multi-Unit On-Call Landscape Construction Services Price Agreement.
- 1.2 Proposal Due Date: December 1st, 2021 at 10:00 am (local time).** The time and date proposals are due shall be strictly observed.
- 1.3 Distribution of RFP Document:** This RFP is issued by the Purchasing Section in accordance with the provisions of Ordinance §2-365 and 2-395. The Purchasing Section is the only organization who is authorized to make copies and/or distribute this RFP in any format. A distribution list of those who receive the RFP will be maintained throughout the procurement process and will become part of the procurement file. Receipt of a Proposal from Offerors not included on the distribution list shall result in immediate disqualification and Proposal shall be rejected. Additional copies of the RFP can be obtained from the Procurement Manager.
- 1.4 Pre-Proposal Conference:** A "Non-Mandatory" pre-proposal conference will be held as indicated in the sequence of events beginning at 10:00 a.m. Mountain Standard Time/Daylight Time on MS Teams only To participate, join the meeting by phone, (Dial-in Number): **+1 505-225-7962; Conference ID: 327 817 456**
- Attendance at the pre-proposal conference is not a prerequisite for submission of a proposal.
- 1.5 Questions/Clarifications:** Potential Offerors are encouraged to submit written questions as to the intent or clarity of this RFP until Tuesday, **5:00 p.m. on November 16, 2021** at <https://berncobonfirehub.com/Opportunities>. Perspective Offerors must register with the County's public purchasing portal at <https://berncobonfirehub.com> (the "Portal") and initiate the communication electronically through the Opportunity Q&A at <https://berncobonfirehub.com/Opportunities>. The County will not accept any communications by any other means, except as specifically stated in this RFP.
- The identity of the perspective Offeror submitting the question(s) will not be shared. All written questions will be addressed at the conference. A public log will be kept of the names of perspective Offerors that attended the conference.
- 1.6 Response to Written Questions -** An Addendum will be issued in response to written questions. If the RFP requires a time extension, the proposal submission date will be changed as part of the written Addendum. Any Addendum issued prior to the submittal deadline shall become a part of the RFP.
- 1.7 Procurement Manager Contact:** Any inquiries or requests regarding this procurement should be submitted in writing to the designated Procurement Manager listed below. Offerors may contact **ONLY** the Procurement Manager regarding the procurement. Inquiries and requests made to other County staff will not be responded to. All responses will be in writing and will be distributed all potential Offerors who receive a copy of this RFP.
- Anthony Serna-Sanchez, Purchasing Administrator
 - Phone: (505) 448-1311
 - Fax: (505) 468-7067
 - E-Mail: adssanchez@berncobonfirehub.com
- 1.8 Submission of Proposal –** All Offeror proposals must be received for review and evaluation, no later than **4:00 PM Mountain Standard Time/Daylight Time on December 1, 2021**. Submit your complete Proposal including all forms, attachments, exhibits, Technical Proposal, Cost Proposal, etc. using the eProcurement System at <https://berncobonfirehub.com/login>. If you do not have a username

and password, please register as this is the only method to submit electronically at <https://bernco.bonfirehub.com>. on the Portal.

All proposals must be received by the County's Purchasing Section as specified herein. Failure to comply with the submission requirements shall be cause for the County to deem the proposal submittal nonresponsive.

- 1.9 Contract Agreement:** The Contract Documents, and the order of precedence are as follows: This Agreement including Exhibits A and B and any subsequently awarded Job Orders, Modifications, Addenda, Special Provisions, General Conditions and Supplementary General Conditions to the AIA Document A201, 1997 Edition, Supplemental Technical Specifications, Specifications, Drawings and Standard Drawings, together with any other documents. These form the Contract Documents, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein. **(See Appendix F: Forms – Agreement, Insurance and Bonding Certification Form).**
- 1.11 Request for Taxpayer Identification Number and Certification.** If Offeror is awarded a contract, a completed and executed Form W-9, Request for Taxpayer Identification Number and Certification, shall be submitted with signed Agreement.
- 1.12 Evaluation period:** The County reserves the right to analyze, examine and evaluate responses to this RFP for a period of ninety (90) days after the hour and date specified for the receipt of proposals.
- 1.13 Evaluation Assistance:** The County, in evaluating proposals, reserves the right to use any assistance deemed advisable.
- 1.14 Rejection and Waiver:** The County reserves the right to reject any or all proposals and to waive any and all informalities and technical irregularities in proposals received and the right to disregard all nonconforming or conditional proposals or counter-proposals. If a proposal is rejected, written notice of the rejection, together with the reasons therefor, shall be mailed by certified mail, postage prepaid, to the Offeror. Offerors whose proposals are rejected shall not be entitled to recover damages of any nature against the County for any rejection of an offer, for cause or convenience.
- 1.15 Collusive Practice:** Collusion among Offerors or the submission of more than one (1) offer under different names by any firm or individual shall be cause for rejection of all offers without consideration.
- 1.16 Cancellation:** The County reserves the right to cancel the opportunity for submissions of proposals when it is in the best interest of the County. The County further reserves the right to reject any or all offers submitted for County's convenience or for cause. Offerors whose proposals are rejected shall not be entitled to recover damages of any nature against the County for any rejection of an offer, for cause or convenience. County reserves the right to cancel without penalty, this RFP, the resultant agreement(s), or any portion thereof for convenience, unsatisfactory performance, or non-appropriation of funds.
- 1.17 Debarred Contractors:** Any proposal received from an Offeror that is, at the time of submitting its proposal or prior to receipt of award of a contract, debarred by or otherwise ineligible to receive funds from any agency of the State of New Mexico, any local public body of the State, or any state of the United States, shall be rejected.
- 1.18 Award of Contract:**
 - 1.18.1 When Award Occurs:** Award of contract occurs when a Notice of Award is issued by the Purchasing Section. A recommendation of award does not constitute award of contract.
 - 1.18.2 Award:** If a contract is awarded, it shall be awarded to the responsive and responsible Offeror(s) whose offer(s) conforming to this RFP will be most advantageous to the County as set forth in the Evaluation Criteria. The County reserves the right to issue a multi-award contract to one (1) primary Contractor and multiple secondary Contractor (s). In the event the County issues a multi-

award, the primary Contractor will be called upon first for any new Job Orders issued under the Agreement. If the primary Contractor is unable to respond to a Job Order request pursuant to Section 3.2, the secondary Contractor (s) shall be called upon. The County also reserves the right to request a quote from both the Primary and all Secondary Contractor(s).

1.18.3 Contract Term and Limits: The contract shall be valid for a period of two (2) years with the option to renew for two (2) additional two (2) year periods for a total of six (6) years by mutual written agreement between the County and the Contractor. Job Orders issued under each Agreement up to \$1,000,000 may be authorized by Project Manager or Department Directors. Job Orders from \$1,000,000 to \$5,000,000 may be authorized by the Deputy County Manager for the respective Division. The maximum Job Order amount is \$5,000,000. The maximum cumulative contract dollar amount for any one firm selected from this RFP is unlimited.

1.18.4 Type of Contract: Firm fixed price for each Job Order.

1.18.5 Debarment/Cancellation of Contract: Upon receipt of notice of debarment of an Offeror awarded a contract as a result of this RFP (the "Contractor"), or other ineligibility of the Contractor to receive funds from any agency of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States, the County shall have the right to terminate the contract with the Contractor resulting from this RFP for cause as provided in accordance with the terms of said contract.

1.19 Negotiations: Negotiations will be conducted with the successful Contractor(s) as Job Orders are needed for projects.

1.20 County Furnished Property: No material, labor, or facilities will be furnished by the County unless otherwise provided for in the Job Order.

1.21 Confidentiality/Public Records: Confidential data is normally restricted to confidential financial information concerning the Offerors organization and data that qualifies as trade secrets in accordance with the Uniform Trade Secrets Act, 57-3-A-1 to 57-3A-7 NMSA 1978, or as provided by the Confidential Materials Act (14-3A-1, 1978 14-3A-2 NMSA 1978), and as otherwise provided by law. With the exception of the aforementioned, information and materials received by the County in connection with this RFP response shall be deemed to be public records, subject to public inspection, upon award of the RFP and execution of an Agreement by the County Commission or their designee. If the Offeror believes any of the information contained in its response is exempt from the Public Records Act, then the Offeror must identify the material which is deemed to be exempt and cite the legal authority for the exemption. Any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" must be readily separable from the proposal in order to facilitate public inspection of the non-confidential portion of the proposal.

The County's determination of whether an exemption applies shall be final, and the Offeror agrees to defend, indemnify and hold harmless the County elected officials, employees and agents against any loss or damages incurred by any person or entity as a result of the County's treatment of records as public records.

1.22 Insurance and Bonds:

1.22.1 General Conditions: The Contractor shall procure and maintain during the term of the Agreement that results from this RFP, insurance coverage of the kinds and in the amounts listed herein. The Certificates of Insurance must be issued by insurance companies authorized to do business in the State of New Mexico and shall cover all performance under this Agreement whether completed by the Contractor, the Contractor's employees, or by subcontractors. The policies shall include a provision for thirty (30) calendar days written notification to the Bernalillo County Procurement and Business Services Department, 415 Silver Ave. SW, 6th Floor, Albuquerque, New Mexico, 87102 in the event a policy has been

materially changed or canceled and be written on an occurrence form naming the County as additional insured (per Form B – CG20101185, CG2010397 or equivalent).

1.22.2 Approval of Insurance: Even though the Contractor may have been given notice to proceed, it shall not begin any work until the required insurance has been obtained and the proper certificates (or policies) filed with the County. Neither approval nor failure to disapprove certificates, policies, or the insurance by the County shall relieve the Contractor of full responsibility to maintain the required insurance in full force and effect. If part of the contract is sublet, the Contractor shall include any or all subcontractors in its insurance policies, or require the subcontractor to secure insurance to protect itself against all hazards enumerated herein, which are not covered by the Contractor's insurance policies in accordance with 1.22.3 below.

1.22.3 Coverage Required: The kinds and amounts of insurance required in accordance with the General Conditions are as follows:

Workers Compensation	Statutory
Employers Liability	\$1,000,000

The Contractor shall comply with the provisions of the Workers Compensation Act of the State of New Mexico, (the "Act"). If the Contractor has determined that it is not subject to the Act, it will certify, in a signed statement, that it is not subject to the Act. The Contractor will notify the County and comply with the Act should it employ three or more persons during the term of any Agreement with the County. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, agreement with the County may be terminated effective immediately.

Commercial General Liability on ISO form CG 0001 0798 or equivalent

Bodily Injury/Property Damage:	\$1,000,000 Each Occurrence
	\$2,000,000 Aggregate

Property Damage Liability Insurance shall not exclude Explosion – Collapse – Underground Coverage (XCU)

Products/Completed Operations:	\$1,000,000 Each Occurrence
	\$2,000,000 Aggregate

Pollution Legal Liability - Applicable)	\$1,000,000 Each Occurrence (If
--------------------------------------------	---------------------------------

Business Automobile Liability

Combined Single Limit - \$1,000,000 Each Occurrence on ISO CA0001 1001 or equivalent.

Pollution Liability (form MCS90) for Transportation exposure - \$1,000,000 Each Occurrence. (If Applicable)

Business Automobile Liability Insurance shall include coverage for the use of all owned, non-owned and hired automobiles and vehicles.

Independent Contractors:	Included
Contractual Liability:	Included

The **Contractor** shall procure and maintain for the duration of **each specific project authorized by a Job Order**, installation floater, boiler and machinery and/or property insurance or insurance of an equivalent nature, in an amount equal to the full price of the Job Order to cover the work of the Job Order for fire, theft, extended coverage, vandalism and

malicious mischief. Such coverage shall continue until the Work or any part of the Work is accepted by the **County**” (emphasis added).

The Contractor shall furnish one copy each of Certificates of Insurance herein required for each copy of the Agreement, which shall specifically set forth evidence of all coverage required. If such limits are higher than the minimum limits required by the County, such limits shall be certified and shall apply to the coverage afforded the County under the terms and conditions of the Agreement as though required and set forth in the Agreement. The Contractor shall furnish to the County copies of any endorsements that are subsequently issued amending coverage or limits.

Increased Limits: If, during the life of the Agreement, the legislature of the State of New Mexico increases the maximum limits of the liability under the Tort Claims Act, the County may require the successful Contractor to increase the maximum limits of any insurance required herein. In the event that the successful Contractor is required to increase the limits of such insurance, an appropriate adjustment in the Agreement amount will be made.

1.22.4 Bond Requirement: The Contractor shall furnish a separate Performance Bond and Labor and Material Payments Bond as follows:

1.22.4.1 Performance Bond and Labor and Material Payment Bond: Every Job Order Project \$25,000 or more, excluding NMGRT, will require an individual performance bond and labor and material payment bond in the full project amount. The Contractor will be required to furnish separate surety bonds each in the amount of one hundred percent (100%) of the total Job Order Contract Price as set forth on the Job Order Authorization Form, offered as security for the faithful performance of the contract and for the payment of all labor and materials. These bonds must be written on the forms provided in this RFP and furnished at the time the Job Order is approved. The Contractor must be named as principal on the bonds. **NO THIRD-PARTY PROPOSAL BONDS WILL BE ACCEPTED.** The sureties on such bonds shall be duly authorized to conduct business in the State of New Mexico, and acceptable to the County, and shall be named in the current U.S. Department of the Treasury’s Listing of Approved Sureties, Circular 570. **(See Appendix F: Bond Forms and Sample Surety Reference Letter, page 68-72).**

CASHIER'S CHECKS, CERTIFIED CHECKS, PERSONAL CHECKS, LETTERS OF CREDIT, CASH OR OTHER SUBSTITUTES WILL NOT BE ACCEPTED IN LIEU OF THESE BONDS.

1.23 Protests: In accordance with Procurement Ordinance, §2-385, §2-367 and applicable procurement regulations, any Offeror who is aggrieved in connection with a solicitation, application of preferences and or award of an Agreement may protest to the Procurement and Business Services Director. The protest must be submitted in writing within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest to:

Dinah Esquivel, Procurement and Business Services Director
Purchasing Section, 6th Floor
415 Silver Ave. SW
Albuquerque, NM 87102

Protests must include the name and address of the protestant, the solicitation number, and a statement of grounds for protest, including appropriate supporting exhibits. Protests received after the deadline will not be accepted.

1.24 Disclosure of Proposal Contents: A public log will be kept of the names of all Offerors which submitted proposals. The proposals and documents pertaining to the proposals will be kept

confidential throughout the duration of the procurement process and until a contract is awarded. At that time, all proposals will be open to the public, except for the material, which has been previously noted and deemed as proprietary or confidential.

- 1.25 Pay Equity Documentation - All Offerors shall include with their proposal submittal, a Pay Equity Reporting Form, or valid Pay Equity Business Certificate, which can be accessed at www.berncogov/general-services/pay-equity.aspx.**

Offerors who are located out-of-state or have no facilities and no employees working in the State of New Mexico are not required to report pay equity data but must verify their out-of-state status on the Pay Equity Reporting Form. Failure to provide a Pay Equity Reporting Form at the time of submission may result in the Offer being deemed nonresponsive. The County may allow for a revised Pay Equity Reporting Form to be submitted by the Offeror within 24 business hours of the proposal due date and time if: (i) the originally submitted form requires a technical change; or (ii) the Offeror fails to include a Pay Equity Reporting Form at the time of submission, provided that the Offeror submits the Pay Equity Reporting Form within the 24 hour business period.

NOTE: THE REQUIRED PAY EQUITY REPORTING FORM IS NOT A PAY EQUITY BUSINESS CERTIFICATE, NOR DOES IT QUALIFY AN OFFEROR FOR THE PAY EQUITY PREFERENCE. FOR QUESTIONS ON HOW TO OBTAIN A PAY EQUITY BUSINESS CERTIFICATE AND QUALIFY FOR THE PREFERENCE, PLEASE CONTACT THE PAY EQUITY ADMINISTRATOR BY TELEPHONE: (505) 768-3512 OR EMAIL: oei@cabq.gov.

- 1.26 Code of Conduct:** The successful Offeror shall abide by the Code of Conduct (http://www.berncogov/code_of_conduct) of the County as it applies to the successful Offeror's interactions with the County. Any violation of the Code of Conduct shall be considered a breach of the Agreement (a draft of the proposed Agreement is included in Section 9).
- 1.27 Notice:** The New Mexico criminal statutes impose felony penalties for bribes, gratuities and kick-backs.
- 1.28 Release of Information:** Only the County is authorized to release information covered by this RFP. The Offerors must refer to the County any requests to release any information that pertains to the work or activities covered by any action or award related to this RFP.
- 1.29 Right to Waive Minor Irregularities -** The Purchasing Section reserves the right to waive minor irregularities. The Purchasing Section also reserves the right to waive mandatory requirements if all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Purchasing Section.
- 1.30 Unfair Business Practices -** A system or pattern of acts or practices that a relevant federal or enforcement agency has made a formal finding within the last three years to be discriminatory, deceptive, fraudulent, or abusive (or similar terms) under the New Mexico Unfair Practices Act, NMSA 1978, §57-12-1 et seq, or an applicable federal or other state consumer protection law relating to the subject matter of the procurement) or that has violated a relevant criminal statute, as evidenced by a public enforcement order or judgment, settlement with the enforcement agency or other formal finding by the relevant enforcement agency with regulatory enforcement authority under the applicable consumer protection law, or criminal conviction.

The County finds that it is a priority to protect its interests and the public's trust by conducting its business with partners that are committed to and consistently demonstrate engaging in fair and responsible business practices. The general purpose and intent of the New Mexico Unfair Practices Act is to ensure to the maximum extent practicable that contracting practices support conducting government business with partners who are committed to and consistently demonstrate engaging in fair and responsible business practices and avoid conducting its business with partners that engage in

criminal or systematic deceptive, fraudulent or abusive business practices.

Offerors must submit with their proposal the completed “Unfair Business Practices Disclosure Form” found in Appendix E. **Failure to complete and return the signed unaltered form will result in disqualification.**

1.31 Application of Preferences: Application of Preferences - To ensure adequate consideration and application of Preferences pursuant to §13-1-21, NMSA 1978 and Ordinance 2-367, Offerors must include a copy of their State of New Mexico preference certificate and any additional documentation required for the County preferences with their proposal. Offerors are not eligible to receive both a Resident Business/Contractor Preference and a Resident Veteran Business/Contractor preference. The Preferences shall not apply when the expenditures for this RFP includes federal funds. See Appendix B for explanation and application for Preference eligibility.

[END OF SECTION 1]

**SECTION 2
TERMS AND CONDITIONS**

- 2.1 Acceptance of Offer:** Acceptance of Offer is contingent upon Offeror's certification and agreement by submittal of its offer, to comply and act in accordance with all provisions of the following:
- 2.1.0 Individual Job Orders:** shall be governed by the "General Conditions of the Contract for Construction" and the "Supplementary Conditions" to the AIA Document A201, 1997 Edition.
 - 2.1.1 Insurance and Bonding Compliance:** Acceptance of offer is contingent upon Offeror's ability to comply with the insurance and bonding requirements as stated in this RFP. A fully executed and notarized Agreement, Insurance and Bonding Certification Form must be submitted with proposal. (See Appendix F, pages 68-72)
 - 2.1.2 License and Royalty Fees:** All license and royalty fees for products or for processes shall be paid directly by the Offeror.
 - 2.1.3 Taxes:** Once a contract is awarded to the qualified Offeror(s) and negotiation of cost for projects pursuant to a Job Order begins the following information on taxes shall apply:
 - 2.1.3.1 General.** The Contractor shall include all applicable taxes, except New Mexico Gross Receipts Tax ("NMGR T"), in all Job Order proposal amounts, including Lump Sum and Unit Prices. Each Job Order offer shall contain a separate entry for NMGR T immediately preceding the Total Base Amount. No Unit Prices or Lump Sum Amounts contained within proposals shall include NMGR T. The Contractor shall pay all applicable gross receipts, local option, sales, consumer, use and other similar taxes and assessments and levies. Owner shall not be responsible for payment of taxes which Contractor is responsible for paying to any taxing authority of any governmental unit. The term "Gross Receipts Tax" shall include local option taxes, whenever applicable.
 - 2.1.3.2 Gross Receipts Tax Increases or Decreases and Limitations on Payment of Increases.** The amount of all taxes in effect at the time an offer for a Job Order is submitted shall be included in the Job Order Contract Price. Payment of any change of rate of gross receipts that take effect during the performance of the contract shall be allowed as a corresponding change in the Contract Price, provided however, that Owner's payment to Contractor of such gross receipts rate change shall be only for progress payments or other billings submitted under the provisions of the Contract on or after the date the rate change goes into effect.
 - 2.1.3.3 Special Instructions on Entering Gross Receipts Tax Where Different Tax Rates Apply.** In the event the work on a project is within areas where different NMGR T Rates apply, the Job Order offer submitted shall provide the applicable tax rate for each such area and the estimated percentage of the work to be performed in each such area. It shall be the sole responsibility of the Contractor awarded the project under a Job Order when submitting pay applications to determine and properly use the correct tax rate and the amount of work performed in each such area.
 - 2.1.4 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 the Agreement resulting from this RFP, Contractor agrees to take appropriate steps to correct the deficiencies.
 - 2.1.5 Wage Rates:** The Contractor's attention is directed to the fact that wages to be paid on all projects under each Job Order shall not be less than the prevailing wage rates as listed by the Director of the Labor and Industrial Division of the New Mexico Department of Workforce

Solutions. The following are the New Mexico Department of Workforce Solutions (formerly Department of Labor) Requirements:

- 2.1.5.1 Public Works Minimum Wage Act.** The minimum wages to be paid the various classes of mechanics and laborers engaged by the Contractor and subcontractors for Work under the Agreement including any additional, omitted or changed work, shall not be less than the amount as determined and established by the Director of the Labor and Industrial Division of the Department of Workforce Solutions as provided by the Public Works Minimum Wage Act, Sections 13-4-11, et seq., NMSA 1978, and in full force and effect, without exception, on the effective date of the Agreement and during the lifetime of the Agreement.
- 2.1.5.2 Payment of Wages.** The Contractor and each of his subcontractors shall pay each of his employees working under the Agreement in full, in cash, and not less than once a week, less all legally required deductions or withholdings. When circumstances are such that payment in cash is not feasible or is impractical, payment may be made by check, provided however that adequate funds to cover same are on deposit at the bank upon which the checks are drawn, and further that the checks may be cashed without charge, trade requirements or undue inconvenience to the payee.
- 2.1.5.3 Apprentices.** The minimum wage rates, if any, specified for apprentices shall apply only to persons working with the tools of the trade that they are learning, and under the direct supervision of the journeyman or master mechanics. Except as otherwise required by law, the number of apprentices in each trade or occupation employed by the Contractor or any subcontractor shall not exceed the number permitted under the usual practice prevailing between trade unions and employers association of the respective trades or occupations.
- 2.1.5.4 Extra Work - Minimum Wage.** In case the County orders the Contractor to perform extra work or additional work which may make it necessary for the Contractor or any subcontractor under him to employ in the performance of such Work any person in any trade or occupation for which no minimum wage rate is specified, the County will include in the Contract Change Order for such extra or additional work the minimum wage rate for such trade or occupation, and insofar as such extra or additional work is concerned, there shall be paid each employee engaged in the Work in such trade or occupation not less than the minimum wage rate included.
- 2.1.5.5 Wage Underpayments and Adjustments.** The Contractor agrees, in case of underpayment of wages to any worker on any project under the Agreement, that the County may withhold out of payments due an amount sufficient to pay such worker the difference between the wages required to be paid and the wages actually paid such worker for the total number of hours worked and that the County may disburse such amount so withheld by it, for and on account of the Contractor to the employee to which such amount is due.
- 2.1.5.6 Availability of Wage Rates.** A copy of the New Mexico Department of Workforce Solutions Minimum Wage Rates and Apprentices minimum wage scales in effect at the time of the Contract shall be posted or otherwise made available to the Contractor's employees at all times on the job.
- 2.1.5.7 Registration of Contractors.** All Offerors shall be registered pursuant to the provisions of Section 13-4-13.1 (NMSA 1978), with regard to Registration of Contractors which requires any contractor, serving as a prime or not, that submits an offer greater than \$60,000.00 for a public works project that is subject to the

Public Works Minimum Wage Act shall be registered with the Labor and Industrial Division of the Department of Workforce Solutions (DWS). Offerors shall indicate their DWS registration number in the space provided in the Statement of Qualifications form. The Contractor awarded the contract shall list the DWS number, if applicable, for each subcontractor listed on the form entitled Contractor's List of Subcontractors/Suppliers, (See Appendix G, Sample Forms). Pursuant to the Subcontractors Fair Practices Act, Section 13-4-31, et seq. NMSA 1978, the County will not approve any subcontractor which has not complied with DWS registration requirements. Any required substitution pursuant to this provision will be made at no cost to the County.

- 2.1.6 Public Works Apprenticeship & Training Act:** All Contractors shall comply with the provisions of Sections 13-4D-1, et seq. (NMSA 1978), with regard to apprenticeship and training contributions and monthly compliance statements to be submitted to the New Mexico Department of Workforce Solutions.
- 2.1.7 Payroll Reports:** The County reserves the right to require Contractor to prepare and submit to the County any and all payroll reports.
- 2.1.8 Utilities:** The Contractor shall make all provisions for supply of power and water for construction purposes.
- 2.1.9 Contractor Maintenance:** After Substantial Completion of each Job Order and up through the time the County accepts Contractor's Application for Final Payment, the Contractor shall continue to be responsible for security, maintenance, heat, utilities, damage to the Work, and Commercial General, and Workers Compensation insurance.
- 2.1.10 Electronic Payments:** Upon mutual acceptance between the parties, payments may be made by electronic funds transfer or by credit card.
- 2.1.11 Allowances:** If any Allowances are included in the Job Order, they are estimated dollar amounts. The actual dollar amounts reimbursed may be less than, equal to, or greater than the stated allowances. The County shall reimburse the Contractor the actual cost based on invoices received from the provider. The Contractor shall, at his expense, furnish necessary equipment, tools and labor in the performance of the work involved in the allowances.
- 2.1.12 Permits:** Unless otherwise specified in the Job Order, The Contractor is responsible for obtaining and paying for all permits and licenses required for the work to be performed under this Agreement. The Contractor is responsible for permit inspections and approvals. Final payment shall not be made until appropriate permits are issued, the work is inspected and approved, and the permit is closed. Contractor shall obtain a barricading permit from the appropriate governing authority at least two days prior to the start of work. Contractor shall give a two-day notice to each resident when a street will be completely closed or reduced to one-way traffic. Contractor shall obtain lane closure permits from the regulatory authority. Lane closures in Bernalillo County right-of-way will require barricade permits from Bernalillo County.
- 2.1.13 Liquidated Damages up to Time of Substantial Completion:** Liquidated damages, in the amount per day shown in the Job Order will be assessed against the Contractor for each calendar day, or portion thereof, that the Work does not start on the date specified in each individual Job Order, and has not achieved Substantial Completion after expiration of the agreed time allotted for construction, including any approved extensions of time granted.
- 2.1.14 Liquidated Damages Following Substantial Completion:** Further, liquidated damages in the amount per day shown in the Job Order will be assessed against the Contractor for each calendar day that all punch list items listed as incomplete and attached to the Certificate of Substantial Completion are not completed or corrected after expiration of the agreed time

allotted for completion and correction, including any approved extensions of time granted. These liquidated damages are cumulative.

The sum of the liquidated damages will be deducted from any monies due the Contractor. If no money is due the Contractor, said sum may be recovered by the County from the Contractor or the Contractor's surety, or from both combined. These deductions are to cover liquidated damages to the County for losses to County that include, but are not limited to, additional expenses of Contract administration, overhead and other costs resulting from failure of the Contractor to complete the Work within the designated time, and are not to be considered as penalties. The County shall not be considered liable for any extra or additional payment to the Contractor as a bonus or premium for early completion.

- 2.1.15 Project Construction Signs and/or Variable Message Boards:** If a project sign and/or a variable message board is required by a permitting office or the Owner the cost of such project sign and/or variable message board shall be included as an Allowance in the Job Order as provided in 2.1.11.
- 2.2 Qualification of Offerors:** The County may make such investigations it deems necessary to determine the ability of the Offeror to perform the Work, and the Offeror shall furnish to the County all such information and data for this purpose as the County may request. The County reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy the County that such Offeror is properly qualified to carry out the obligations of the contract and to complete the Work contemplated herein.
- 2.3 Subcontractors, Other Persons, Organizations:**
- 2.3.1.** If the Job Order requires the identity of certain Subcontractors and other persons and organizations to be submitted to the County, the Contractor will submit with the Job Order offer a list of all Subcontractors and other persons and organizations (including those who are to furnish the principal items of material and equipment) proposed for those portions of the Work for which such identification is required. If requested by the County, such list shall be accompanied by an experience statement with pertinent information as to similar projects and other evidence of qualification for each such Subcontractor, person and organization. If the County, after due investigation, has reasonable objection to any proposed Subcontractor, other person, or organization, the County may, before giving approval of the Job Order, request the Contractor to submit an acceptable substitute. Any Subcontractor, other person or organization so listed and to whom the County does not make objection prior to giving approval of the Job Order will be deemed acceptable to the County.
- 2.3.2.** Job Orders issued under the Agreement may be subject to the provisions of the "Subcontractors Fair Practices Act", Sections 13-4-31 et seq., NMSA 1978. When this Act is applicable, each Contractor shall comply with the requirements set forth in Part 7 of this RFP.
- 2.4 Code of Conduct:** The successful Offeror shall abide by the Code of Conduct (http://www.berncounty.gov/code_of_conduct) of the County as it applies to the successful Offeror's interactions with the County. Any violation of the Code of Conduct shall be considered a breach of the Agreement (a draft of the proposed Agreement is included in Part 9).
- 2.5 Contractor's Indemnification:**
- The Contractor hereby agrees to hold harmless and indemnify the County, its elected officials, and employees from and against all liability, claims, damages, losses or expenses, including reasonable attorney's fees, arising out of or resulting from the Contractor's and/or any of their sub-contractor's employees', agents', or officers' conduct, performance, act(s), effort(s), or omission(s) relating in any manner whatsoever to this Agreement. This indemnification provision is subject to the limitations and provisions of Section 56-7-1, N.M.S.A 1978.

Receipt by the County of the Contractor's services under this Agreement, review by the County of any Plans, Specifications and documents by the Contractor, and County authorizations for the Contractor to proceed with the various phases of services shall not be construed as approval of the Contractor's work product by the County or as the giving of instruction or directions by the County.

The indemnity required hereunder shall not be limited by reason of the specifications of any particular insurance coverage in this Agreement.

2.6 Subcontractors: All work that may result from this procurement must be performed by the successful Offeror any payments will only be made to the successful Offeror. Use of subcontractors identified in each job order are permitted. There is not a threshold of the amount of work the subcontractor can perform.

2.7 Acceptance of Conditions Governing the Procurement: Offeror must indicate their acceptance of the Conditions Governing the Procurement, Section 2, in the Submittal Letter. Submission of a proposal constitutes acceptance of all conditions contained herein including the evaluation factors contained in Section 6.

2.8 Additional Requirements, State/Federal Projects

When applicable, additional information may be required from Contractor(s), for compliance with State and/or Federal requirements, which shall be incorporated into the Job Order Authorization Form.

[END OF SECTION 2]

SECTION 3 JOB ORDERS

- 3.1 General:** Individual Job Orders for general construction services will be issued primarily by the Bernalillo County Public Works Division (PWD) Fleet/Facilities Management Department as needs arise, however other departments may also require work to be performed. In the case of other County departments requiring work on County-owned facilities, the Fleet/Facilities Management Department shall be consulted prior to performance of work. Such Job Orders will include an approved Job Order Authorization Form. The authorized Job Order Authorization Form is the Notice to Proceed given to the Contractor awarded the project under the Job Order to begin work on a particular project. The Job Order sets forth the Contract Time, the date to start work, the date to finish the work, and the liquidated damages for Contractor's failure to comply with each. The contract price is the accepted offer from the Contractor for the work under a Job Order project and shall be the total monies payable to the Contractor.
- 3.2 Issuance of Job Orders:** An authorized County representative will prepare a written outline of project requirements to include a general description of the Work, drawings, materials, labor, equipment, and any special criteria ("Job Order"). If available, plans will be provided by an authorized PWD Fleet/Facilities Department representative. The authorized County representative will contact the primary and/or secondary Contractor(s) via fax, email, telephone and/or in writing as to the issuance of a Job Order project. If necessary the authorized County representative will meet with the Contractor(s) to review the scope of the proposed Job Order, visit the site in order to become familiar with all governing site conditions, and to establish a reasonable time and schedule for completion of Work. Factors to be considered shall include, but not be limited to, the nature and urgency of the Work, coordination with County Department needs, coordination with other construction contracts in the area, impact of previously issued Job Orders, scheduling and available staffing, and lead time for delivery of materials. Contractor(s) shall then have **five (5) working days** within which to provide a Job Order offer. The Contractor(s) may be required to meet with an authorized County representative as required to confirm the project requirements and review the budget and schedule.
- 3.3 Job Order Offers:** When requested, the Contractor(s) will submit a written Job Order offer to the authorized PWD representative incorporating a declaration as to the Contractor's ability to perform the required services. The Job Order offer shall include a detailed written proposal for performing the services and accomplishing the Work as described in the Job Order project and a total Price for such services and work. The Job Order offer shall be broken down into Lump Sum Offer Items and shall identify all subcontractors and reimbursable costs to perform the services and accomplish the work as described (see **Appendix G, Sample Forms for Sample Job Order Offer Form, page 68**). **The Job Order offer must include a signed statement that the Contractor agrees that all offers submitted for each Job Order project may not be withdrawn for a period of fifty-five (55) calendar days after being submitted to the County for consideration.** The written offer will include all labor costs adjusted for a Wage Decision issued by the State of New Mexico for the appropriate type of project, if applicable. The standard equipment / material rates and manpower rates used to prepare the offers shall be in accordance with those submitted to County with the RFP.
- 3.4 Job Order Authorization-Notice to Proceed:**
- 3.4.1** The process for issuance of individual Job Orders includes the following major functions prior to the Notice to Proceed Authorization:
- 3.4.1.1. An authorized County representative will issue individual Job Orders to the Contractor(s) to submit an offer.
- 3.4.1.2. If a Job Order request is issued to both the primary and secondary Contractor(s), an authorized County representative will review and select the offer most

advantageous to the County based on price, Contractor's ability to perform work and/or other criteria as may be stated in the Job Order request.

- 3.4.1.3. An authorized County representative and Contractor will set Contract Price, time and schedule for completion of Job Order.
- 3.4.1.4. An authorized County representative will complete a Job Order Authorization Form, note a recommendation and will submit to Contractor for approval. An authorized County representative acceptance of Contractor's offer and submittal of completed Job Order Authorization Form to the Contractor for approval constitutes the Notice of Award of the project under the Job Order to the Contractor. The County will submit to the awarded Contractor the Wage Decision Notification of Award (NOA), if applicable.
- 3.4.1.5. Contractor signs and returns Job Order Authorization Form to the authorized County representative together with Performance Bond and Labor and Materials Payment Bond in an amount equal to one hundred percent (100%) of the Job Order Contract Price, and all required insurance certificates, which shall be forwarded to the Purchasing Department for review. If all documents are acceptable, the Purchasing Department will issue a written Purchase Order.
- 3.4.1.6 . Following issuance of a written Purchase Order, the Job Order Authorization Form, signed by an authorized PWD Fleet/Facilities or Parks & Recreation Department representative, will be returned to the Contractor as the Notice to Proceed with Job Order project.

3.4.2 The above process is presented to inform County and Contractor representatives of the steps that must be completed before the Notice to Proceed (NTP) Authorization will be signed by an authorized County representative. This information is provided to aid the Contractor in fulfilling the requirement that he/she not proceed with unauthorized work. Unauthorized work is any work performed prior to the issuance of a written Purchase Order.

3.4.3 No payment will be made to the Contractor for Work performed without proper Notice to Proceed Authorization for the associated Job Order and a written Purchase Order.

3.5 Termination of Job Order Issuance:

3.5.1 At any time prior to award of a Job Order to the Contractor(s), the County shall have the unilateral right to request a separate solicitation for Work required for any project or portion of a project, or if such Work is related to another project for which the County has an existing contract, the County shall have the right to authorize said Work to be performed under a change order to such related contract, without obligation under this Agreement.

3.5.2 Should the County and the primary Contractor be unable to establish mutually acceptable pricing, time or schedule, for any proposed Job Order, the County will select an offer from the secondary Contractor(s) or to terminate the Job Order authorization process for that work to be performed under the established Agreement, and proceed to seek performance for the same Work under a separate RFP, without further obligation under the established Agreement.

3.6 Job Order Hourly Rates:

3.6.1 The offered hourly rates are to be applied to the individual Job Orders to be issued, as set forth under the terms and conditions of this solicitation and resulting agreement. Work to be performed will be dependent upon Job Order requests from the County (see "Section 8, Cost Proposal", pages 49-50 for additional information).

3.7 Owner's Rights:

3.7.1 The term "project" as used in this section means any combination of Work under a single Job Order that the County, in its sole discretion, determines to have constructed, at a single site or multiple sites.

3.7.2 The County reserves the right at any and all times to issue a separate solicitation on any project for the Owner with no obligation to issue a Job Order this contract. Should the County exercise this right, it shall be considered as a separate contract, foreign to any commitments to this Contract, and will in no way relate to the contractual agreements, time, estimated quantities or money contained in this document.

3.8 Progress Reports: The Contractor shall submit a progress report once each calendar month showing the status of all outstanding Job Orders awarded to the Contractor that pertain to this Contract. These reports shall include the following items.

1. Job Order Number
2. Short Title
3. Date Job Order Issued to Contractor
4. Scheduled Start Date for Job Order Construction
5. Scheduled Acceptance Date
6. Percent (%) Completed
7. Actual Acceptance Date
8. If construction exceeds time allowed or requires rescheduling, the reason therefor shall be indicated by the Contractor.

3.9 Collusive Practice: Collusion among awarded Contractors on Job Order offers shall be cause for rejection of all offers without consideration.

[END OF SECTION 3]

SECTION 4
Scope of Services
Multi-Unit On-Call Landscape Construction, General Maintenance Services

4.1 Scope of Services

The awarded Contractor(s) will: provide construction services for landscaping and related infrastructure improvements and general maintenance at parks, athletic fields, roadway medians, trails, parking lots, open space properties, public buildings and other County facilities. These landscape construction services include, but are not limited to, general maintenance, utilities, asphalt, concrete, lighting, fencing, masonry landscape walls, stonework, shade structures, grading and drainage, parking, aggregate, artificial and natural sod turf, reclamation seeding, grasses, shrubs, trees, irrigation, site furnishings and amenities.

The Contractor shall provide skilled journey-level irrigators and semi-skilled labor personnel, equipment operators, technical personnel, supervisors, materials, supplies, machinery, tools, equipment, utility and transportation services. The Contractor's personnel must work independently and exercise skilled judgment in the performance of assigned duties.

The Contractor's personnel shall have a cell phone and number supplied by the Contractor for communication regarding work under this agreement.

4.2 Material Escalation Clause

It is intended that the cost proposal pricing be used as a Guaranteed Maximum price list for the first year after execution of the agreement.

After the first year, in the event of a product cost increase, an escalation request to adjust the cost proposal pricing list will be reviewed by the Purchasing Section upon receipt of a written notice from the Contractor to the Purchasing Section at least thirty (30) calendar days prior to the expiration of each year of the term of the Agreement. The expiration of each year, for escalation purposes, shall be defined as 365 days from the date of execution of the Agreement and every 365 days thereafter. The County reserves the right to accept or reject, within 30 days, or cancel the agreement. Be advised this measure is not intended to allow any increase in profit margin, only to compensate for an actual cost increase.

A certified letter shall accompany all price increases from the Contractor's supplier showing the increase to the Contractor.

Any approvals will be provided by the Purchasing Section to the Contractor in writing. The price changes will become effective as set forth in a written amendment to the Agreement and mutually agreed upon by the County and Contractor. Any amendment approved for price increases shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon.

If the Contractor receives any price decreases from the supplier of goods sold to the County under the Agreement, the Contractor is always able to provide job order offer items that reflect cost decreases.

4.3 Labor. New cost proposal pricing may be submitted to the County annually, with manpower corresponding to DWFS imposed changes, if such rate changes impact particular work items, in accordance with Section 4.2 above.

4.4 Specifications

Landscape Construction Services will be performed and materials will be provided in conformance to the applicable specification as follows, to the extent that they do not conflict with this RFP, or any Agreement entered into as part of this RFP. These specifications are a part of this RFP and all Agreements entered into between the Contractor(s) and the County, including all Subcontractors, and shall apply to all portions of the work described herein. When a discrepancy in specifications for a

particular work item arises, the more stringent specification shall govern, and the County shall make the determination with such decision being final.

4.4.1 Construction of utility and landscaping work, and where designated, paving and drainage items shall be performed using the applicable technical specifications and standard drawings contained within the City of Albuquerque Standard Specifications for Public Works Construction (including parks construction), latest edition, as amended. These specifications are available online at:

<http://documents.cabq.gov/planning/DevelopmentReviewServices/DRC-StandardSpecUpdate9-ABCWUALandscape-8-2015.pdf>

4.4.2 If, applicable, New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, latest edition as amended. These specifications are available online at: <http://dot.state.nm.us/en/PSE/Standards.html>.

4.5 Examination of Specifications, Contract Documents, and Project Site

Successful Contractor(s) shall visit the site(s) of the proposed work, fully acquaint themselves with the existing conditions relating to the landscape construction services of the Job Order Project, fully inform themselves as to the facilities involved, and fully investigate the difficulties and restrictions attending the performance of the Contract. For each Job Order, Contractor(s) shall thoroughly examine and familiarize themselves with the job site, scope of work, or if provided, Plans, Specifications, and/or all other Contract Documents. The Contractor, by the execution of the Notice to Proceed (NTP) shall not be relieved of any obligations thereunder due to their failure to receive or examine any form or legal instrument or to visit the site(s) and acquaint themselves with the conditions there existing. The County will be justified in rejecting any claim based on facts which the Contractor should have noticed as a result of visiting the work site(s). Determining the location of all underground utilities is the responsibility of the Contractor. The Contractor(s) shall familiarize themselves with federal, state and local laws, ordinances, rules and regulations and the Project site and local conditions and any other matters which would affect the landscape construction and location of all underground utilities, performance of the Work and employment of labor thereon.

4.6 Utilities

The Contractor shall make all provisions for supply of power, water and other utilities necessary for landscape construction purposes. The Contractor shall be responsible for the coordination of all utilities.

4.7 Safety Standards and Accident Prevention

With respect to all work performed under this Contract, the Contractor shall:

4.7.1 Comply with the safety standards provisions of applicable laws, building and construction codes, and the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, the requirements of the Occupational Safety and Health Act of 1970 (Public Law 91-596), and the requirements of Title 29 of the Code of Federal Regulations, Section 1518 as published in the Federal Register, Volume 36, Number 75, Saturday April 17, 1971 as amended and updated.

4.7.2 Exercise every precaution at all times for the prevention of accidents and the protection of persons, including employees and property.

4.7.3 Maintain at the Contractor's Office or another well-known place at the job site, all articles necessary for giving first aid to the injured and shall make standing arrangements for the immediate removal to a hospital or a doctor's care. In no case shall employees be permitted to work at a job site unless and until the Contractor has made a standing arrangement for the immediate removal of injured persons to a hospital or a doctor's care.

4.8 Applicable Laws and Regulations

All applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over landscape construction services under this Proposal shall apply to all Job Orders issued as a result of this RFP.

4.9 Utility Relocation Allowance

- 4.9.1 Where possible, all conflicts with existing private utilities shall be avoided by minor adjustments to the alignment of the proposed facilities as directed by the County's Project Manager. Where conflicts are determined to be unavoidable by the County's Project Manager, the private utility shall be relocated. The Contractor shall notify the utility owner and the County at least three (3) weeks prior to needing the utility relocated. The Contractor shall be responsible for coordinating this work and paying invoiced cost to the utility owner. The Contractor may be required by the utility owner to pay for such relocation work prior to the actual relocation work being performed.
- 4.9.2 The Contractor shall submit a utility relocation estimate from the utility owner to the County's Project Manager for review and approval prior to actual direction from the County's Project Manager to relocate the utility.
- 4.9.3 When applicable, a Utility Relocation Allowance will be included in the Job Order Authorization Form to pay for field utility relocations that may be required to be performed by the appropriate utility owner. The County shall reimburse the Contractor the actual cost for all such utility relocations based on invoices received from the utility owner. The County will not pay for any utility relocation without prior written approval from the County Project Manager. The Contractor must submit a utility relocation estimate, from the utility owner, to the County's Project Manager for review and approval. Contractor mark-up will not be allowed.
- 4.9.4 The Utility Relocation Allowance stated in the Job Order Authorization Form is an estimated dollar amount. The actual dollar amount reimbursed may be less than, equal to, or more than the stated allowance.
- 4.9.5 The Contractor shall, at the Contractor's expense, furnish necessary equipment, tools, and labor to assist the utility owner in the performance of utility relocations. All additional costs associated with potholing, discovery, surveying, site cleanup, and coordination necessary to achieve required utility relocations shall be incidental to the work and shall be included in the Job Order Offer. No additional compensation shall be allowed for delays or inconvenience caused by utility company work crews.

4.10 Communications

- 4.10.1 All notices, demands, requests, instructions, changes to the work described in the Job Order Authorization Form, approvals, proposals and claims shall be in writing.
- 4.10.2 Except for designated emergency work, any notice to, or demand upon the Contractor, shall be sufficiently given if delivered at the office of the Contractor as stated in the Bid (or at such other office as the Contractor may, from time to time designate in writing to the County) or if deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any delivery service company for transmission to such office.
- 4.10.3 All papers required to be delivered to the County, unless otherwise specified in writing to the

Contractor, shall be delivered to:

Bernalillo County Procurement and Business Services Department
415 Silver Ave. SW, 6th Floor
Albuquerque, New Mexico, 87102

and any notice to, or demand upon Bernalillo County, shall be sufficiently given if so delivered, or if deposited in the United States mail in a sealed postage- prepaid envelope or delivered with charges prepaid to any delivery service company for transmission to the County at such address, or to such other address or representative as the County may subsequently specify in writing to the Contractor for such purpose.

- 4.10.4 Any such notice shall be deemed to have been given as of the time of actual delivery or, in the case of mailing, when the same should have been received in due course of post, or in the case of delivery services at the time of actual receipt, as the case may be.

4.11 Coordination of Specifications and Contract Documents

- 4.11.1 When applicable, all Job Order Plans, Specifications, Contract Documents, and all Addenda to the Specifications and Documents, if any, are essential parts of the Contract, and a requirement occurring in one is just as binding as though occurring in all. They are intended to be complementary, to describe and provide for a complete work. In case of a discrepancy, figured dimensions, unless obviously incorrect, shall govern over scaled dimensions.
- 4.11.2 The Contractor shall not take advantage of any apparent error or omission in the Plans and Specifications. In the event the Contractor discovers an apparent error or discrepancy, the Contractor shall immediately call upon the County for its interpretation and decision, and such decision shall be final.

4.12 Job Offices

- 4.12.1 The Contractor and their Subcontractors may maintain such office and storage facilities as are necessary for the proper conduct of work. Arrangement for and cost associated with such facilities are the responsibility of the Contractor. The County shall be consulted and approve the location(s) of such facilities. A Conditional Use Permit from the County Zoning, Building, and Planning Department is required for all such office and storage facilities.
- 4.12.2 Upon completion of the work, or as directed by County, the Contractor shall remove all such temporary structures and facilities from the site(s), the same to become their property, and leave the work site(s) in good condition, or as otherwise required by the Contract.

4.13 Emergency Provisions

The Contractor must designate at least one (1) capable, responsible employee to represent itself in case of an emergency. Such employee(s) shall have a local telephone where they may be reached at any hour of the day or night. Directions for contacting such employee(s) shall be given to the Project Manager for the County, applicable County Fire Department, Sheriff's Office or other emergency personnel.

4.14 Access to Site

- 4.14.1 The Contractor will allow access to the landscape construction site(s), afford all facilities for observation of the work as it progresses, and provide for the on-site safety of authorized personnel of the following:
- 4.14.1.1 Bernalillo County Parks and Recreation Department and its Agents.
 - 4.14.1.3 Other City, County, State and Federal Agencies and their Agents as necessary.

4.15 Source and Purchase of Materials, Equipment, and Supplies

- 4.15.1 As part of this Contract, and as one of the considerations for the awarding of the same, the Contractor agrees that they will not, in the performance of this Contract, knowingly do business with or purchase or obtain materials, equipment, supplies, or services of any kind or character, either directly or indirectly, from any employee of the County.
- 4.15.2 The Contractor further agrees that, in the event of a violation of any of the provisions of the preceding paragraph, this Contract may be canceled by the County, and in such an event, the Contractor waives and relinquishes any right or claim which they may have or claim to have for damages, current or future payments or otherwise by reason of such cancellation.

4.16 Night Work

The Contractor may be permitted or directed to perform night work or to vary the period during which work is ordinarily carried on in the daytime, they shall give notice to the County so that proper observation may be provided. Such work shall be done under regulations to be furnished in writing by Bernalillo County, and compensation shall be allowed the Contractor in accordance with Section 4.23 (Change Orders). In the event of night work, the Contractor shall furnish such lights, satisfactory to the County, as will assure proper observation and safety.

4.17 Water & Utilities

The Contractor, at their expense, shall provide and make arrangements for water and other utilities required. The Contractor shall be responsible for the coordination of all utilities.

4.18 Traffic Control Devices and Street Name Signs

The Contractor is responsible for the placement of all project-related traffic control devices and the replacement of all traffic control devices and street name signs which are removed or replaced during and after landscape construction for the duration of the Project. Where necessary, traffic control devices and street name signs may be removed and replaced during and after landscape construction, in equal or better fashion. Payment of this work shall be made under and shall be included in the cost proposal items for traffic control as shown on the Job Order and no additional payment shall be paid therefor. The Contractor will inventory all signs on the Project and provide a complete list to the Project Manager prior to commencing any work on the Project.

4.19 Traffic Control Plans and Traffic Interference

- 4.19.1 If traffic control plans are provided by the County, the traffic control operations shall conform thereto. Otherwise traffic control shall be provided by the Contractor in compliance with Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD), latest edition. The Contractor shall not deviate from the Traffic Control Plan without prior approval by the County's Traffic Control Manager.
- 4.19.2 All work will be completed as expeditiously as possible pursuant to the terms specified in the Contract Documents. The Contractor will not be permitted to block or otherwise interfere with traffic except as approved by the County's Traffic Control Manager. The Contractor shall provide proper signage and flagmen and shall maintain the traffic lanes in such a manner as to ensure proper safety to the traveling public on all affected roads. The Contractor shall provide access to all private and public property at all times.
- 4.19.3 Traffic lanes provided during landscape construction shall be maintained in such a condition under all weather conditions so as to permit the reasonable passage of a passenger vehicle, and shall be kept graded smooth, and watered several times daily to control dust. Temporary pavement may be required for long-term traffic detours.
- 4.19.4 The Contractor shall submit a Traffic Control Plan to the County's Traffic Control Manager for approval at least 72 hours prior to commencement of work. The Traffic Control Plans

shall be prepared in accordance with the U.S. Department of Transportation, Federal Highway Administration Manual on Uniform Traffic Control Devices (MUTCD) requirements and by ATSSA-certified Traffic Control Supervisor (TCS) personnel, and must be approved by the County's Traffic Control Manager prior to commencement.

- 4.19.5 A Daily Traffic Control Log shall be maintained by the Contractor that reflects the types and locations of all traffic control devices, signs, barricades and other traffic control devices being used on the Project in compliance with the approved Traffic Control Plan. This log shall be submitted to the County's Traffic Control Manager upon completion of the project construction or at any other time during landscape construction when so requested by the Project or Traffic Control Manager. Daily Traffic Control Log shall be incidental to the Contract and no additional payment will be made for the Daily Traffic Control Log.
- 4.19.6 The Contractor shall, at their expense, furnish all equipment, tools, materials, and labor associated with lay out, set up, site cleanup, removal of graffiti, replacement and resetting of devices moved, damaged, stolen or otherwise taken from the site, coordinate with agencies, residents, and others necessary to achieve required traffic control. The costs associated with these services shall be considered incidental to the Contract. No additional compensation will be allowed for delay or inconvenience caused by others providing design services, equipment, or materials associated with traffic control work. The Project Manager may also suspend the Work if the traffic control is not maintained and violates traffic safety.
- 4.19.7 The Contractor shall provide updated Traffic Control Plans (and any revisions) to the County's Project Manager and the County's Traffic Control Manager at weekly landscape construction meetings. It shall be the Contractor's responsibility to ensure daily that all traffic control devices and signs are posted and meet all requirements during landscape construction as directed by the County's Traffic Control Manager and the County's Project Manager. Failure to comply with this will result in project shutdown at no additional cost to the County.

4.20 Construction Site Safety

- 4.20.1 The County is not responsible for Construction Site Safety Engineering. The Contractor is responsible for all Construction Site Safety Engineering. Construction Site Safety Engineering as used herein includes, but is not limited to, design and review of site safety precautions which are utilized to protect the workmen, the general public, and others from bodily injury or property damage. This includes, but is not limited to, scaffolding, trench shoring, and concrete form work and the structural adequacy of the same.
- 4.20.2 Traffic control devices such as detours, barricades, warning lights, and signs of the proper type and location; the use of flagmen; and all other methods and means of maintaining a safe place to work shall be the responsibility of the Contractor and shall be in accordance with the most current edition of Manual on Uniform Traffic Control Devices of the U.S. Department of Transportation, Federal Highway Administration. The Contractor shall develop a Project Safety Engineering Plan and obtain the approval of the Project Manager and the County's Traffic Control Manager prior to initiation of landscape construction activities. Associated costs shall be considered incidental and included in the appropriate bid items.
- 4.20.3 All Contractors and their Subcontractors shall comply with OSHA 29 CFR 1926, Safety and Health Regulations for Construction. A detailed Safety and Health Plan shall be prepared by the Contractor as part of a Project Safety Engineering Plan and shall be provided to the Project Manager before the Notice to Proceed is issued. The Contractor shall make available upon request all OSHA required documentation, including but not limited to, Job Hazard Analysis, Safety and Health Plan updates, Material Safety Data Sheets, listing of Material Safety Data Sheets, environmental monitoring data, evidence of training, and confined space entry permits.

4.21 Manufacturer’s Warranties

The County and the Contractor(s) shall exhaust all manufacturer's warranties, prior to filing of claims against any other party, for the failure of such manufactured products to function properly.

4.22 Recording Work

The Contractor shall keep one record copy of all Plans, Maintenance Quotes, Specifications, Drawings, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the landscape construction, or maintenance process current to within two weeks. These shall be available to the Project Manager at all times. If plan drawings, or scope of work are provided by the County, the Contractor shall turn over two sets of as-built drawings to the Project Manager upon completion of the project and assist the Project Manager in preparing record drawings for submittal to the County. For all irrigation-related work, the Contractor shall provide two laminated 11”x17” copies and one digital copy of the irrigation system as-built, including the location, type and size of all emission devices, fittings, valves, controllers, backflow preventers, wire, piping, drains, meters, flow meters and all other appurtenances. The irrigation system as-built shall clearly number and identify each irrigation zone as programmed in the irrigation controller by the Contractor.

4.23 Changes in The Work - Change Orders

4.23.1 Additional unit price or modified work items may be negotiated by mutual consent of the Contracting Agency and the Contractor for work not included in the scope of the cost proposal, so long as the total job order change does not exceed 10% of the job order or \$10,000, whichever greater.

4.23.2 Where the total of new unit price work items in a single project are in excess of \$10,000.00, or unit items are to be made a permanent part of the cost proposal, approval by the County’s Change Order Committee shall be required.

4.23.3 Where mutual consent is not reached, the following procedure will be used for changes or force account work:

4.23.4 The combined allowance for overhead and profit, included in the total cost to the Contracting Agency, shall be based on the following procedure: With each proposal for a change in the amount of the Contract, the Contractor shall submit an itemized breakdown of all increases or decreases in the cost of the Contractor's and all Subcontractor's work to include at least the following detail in the general order listed:

Material quantities and unit costs

Labor amounts and hourly rates (identified with specific items of materials to be placed or operation to be performed)

Equipment cost, if any

Workmen Compensation and Public Liability Insurance

Overhead and Profit

Employment Taxes under FICA and FUTA

The allowance for overhead and profit combined shall be based on the following schedule:

	<u>Subtotal before Applying the Percentage Shown</u>
Contractor for work performed by their own forces	10
Subcontractor for work performed by their own forces	10
Contractor for work performed by their Subcontractors	5

Overhead for individual change order proposals that include a time extension of five (5) calendar days or less shall include such as the following: bond premiums, small tools, incidentals, and general office expenses.

Overhead for those including a time extension more than five (5) calendar days shall include such as the above with superintendent and wages of timekeepers negotiated on an individual basis.

On proposals covering both increases and decreases in the amount of the Contract, the combined overhead and profit shall be allowed on the net increase only.

4.24 Board of County Commissioners

No officer or employee of the Board of County Commissioners or public officer of the County shall be admitted to any share or part of the resulting Contract(s) or to any benefit that may rise therefrom, directly or indirectly, unless it be made with a corporation for its general benefit.

4.25 Method of Measurement for Payment

4.25.1 All items required for any Job Order, whether listed in the unit price schedule or not, shall be considered as producing finished products. Components within unit price items are considered incidental to the Contract and no additional payment shall be made unless unanticipated conditions are discovered. Determination that conditions are unanticipated shall be the sole discretion of the County, in which case a change order shall be prepared. The Contractor shall not be paid for performing any work not specifically required by the Contract or written change orders approved by the Project Manager and Engineer. The cost of performing the change order work must be agreed upon by both parties to the Contract, unless a written notice to proceed is issued by the Project Manager prior to initiation of landscape construction on the changed work.

4.25.2 If any incidental work is not completed by the Contractor, the County at its discretion may remove payment from the mobilization bid item and use those monies to perform the incidental work as necessary, which may include the use of another contractor.

4.26 Contractor's Duty

4.26.1 The Contractor has the affirmative duty to discover any defects, errors or omissions in the Plans, Specifications, Change Orders, and/or in the actual landscape construction or maintenance of the Project, and upon discovery, to immediately report them to the County and to take any and all action necessary to mitigate and/or eliminate their effect on the Project, Maintenance, and the cost thereof to the maximum extent possible.

4.26.2 If the Contractor discovers or should have discovered an error, omission or discrepancy in the Plans, Specifications, Scope of Work, Change Orders, and/or in the actual landscape construction or maintenance of the Project and fails to notify the Project Manager of such, then the Contractor shall assume all incidental and consequential liability therefor, shall not be compensated therefor, and shall indemnify and hold harmless the County therefor.

4.27 Construction Surveying and Staking

Construction staking shall be performed by the Contractor unless provided for by others. The associated costs shall be considered incidental and included in the costs under the applicable cost proposal item(s). Construction Surveying is specific to cost proposal items for construction surveying, unless provided for by others.

4.28 Construction, Maintenance Progress Meetings, Public Notice and Coordination

4.28.1 The Contractor shall hold landscape construction, maintenance progress meetings for the purpose of keeping the affected property owners, residences, and businesses informed as to

general landscape construction, maintenance progress and future schedule of detours, street and property access closures, water shutoffs, and the like.

- 4.28.2 The Contractor shall hand deliver special notices, prepared on official Contractor letterhead, to each resident and business adjacent to the landscape construction, maintenance area which may be affected by proposed landscape construction, or maintenance activities. Special notices are to inform residents in writing wherever access to their property will be impaired. Special notices shall be delivered not more than seven (7) calendar days, nor less than four (4) calendar days prior to the actual physical landscape construction that will affect the property.
- 4.28.3 The written notice is to state:
 - 4.28.3.1 Contractor's name, address, and local telephone number
 - 4.28.3.2 Nature of work to be done
 - 4.28.3.3 Type of disruption residents might expect
 - 4.28.3.4 Expected duration of landscape construction
 - 4.28.3.5 Contractor's local telephone number to which complaints may be made during normal working hours.
 - 4.28.3.6 Contractor's local telephone number to which emergency conditions can be reported during non-working hours.
- 4.28.4 No separate payment for the above shall be made and the work shall be considered incidental. Contractor is reminded that projects are publicly funded with tax dollars; and that he/she must be professional and courteous in all dealings with the public.

4.29 Testing

- 4.29.1 If required, the Contractor shall be responsible for quality assurance testing. All materials testing required on the Project shall be performed by an independent testing laboratory employed by the Contractor.
- 4.29.2 The laboratory shall meet the certifications as required in the NMDOT Standard Specifications for Highway and Bridge Construction, 2007 edition (Orange Book) Section 901, Quality Control/Quality Assurance.
- 4.29.3 Frequency of testing for quality assurance shall be done in accordance with the Minimum Quality Assurance Testing Requirements set forth in the DOT and COA standard specifications as applicable.
- 4.29.4 The Contractor testing laboratory shall furnish copies of all test reports to the County in a timely manner. The project manager or his/her representative shall be notified immediately of any failing tests. Payment for all testing of any nature whatsoever to be performed by the Contractor, except re-testing any tests which fail, shall be paid under the job order item for testing.

4.30 Ownership of Documents

The County is the sole owner of all documents, reports, and data, compiled or arising out of the Contract and/or Project regardless of the medium used.

4.31 Guarantee Provisions

After the approval of final payment and prior to the expiration of one (1) year after the date of substantial completion of the Job Order or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, if any work is found to be defective, Contractor shall promptly, without costs to the County and in accordance with the County's written instruction, either correct such defective work or, if it has been rejected by the County, remove it from the site, and replace it with non-defective work. The Contractor shall also reimburse the County for the cost of any reasonable testing or exploratory work conducted to verify

the limits and amounts of the defective work. If the Contractor fails to promptly comply with the terms of such instructions, the County may have the defective work corrected or the rejected work removed and replaced and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor. Should the County engage in correcting defective work, such shall be considered a default on the contract, and be grounds for termination.

4.32 Project Construction Signs

- 4.32.1 GENERAL: When required in the Job Order, the Contractor shall provide, erect, and maintain for the duration of the landscape construction Project, Project construction signs as described in **Appendix G, page 80** and shown on the landscape construction Plans.
- 4.32.2 CONSTRUCTION SCHEDULE SIGNS: If required, the Contractor shall provide the Project Manager with a Construction Schedule for signs, which must first be approved by the Project Manager. Once approved, the Contractor shall comply with the dates and times specified in the Construction Schedule for signs.
- 4.32.3 MAINTENANCE INCIDENTAL: Maintenance of said signs shall be incidental to the project and no separate payment shall be made therefore. All graffiti or defacement placed on Project Construction signs shall be promptly removed. If the sign deteriorates to an un-presentable state, such sign shall be replaced.
- 4.32.4 PAYMENT: Payment for Project Construction Signs shall include fabrication and construction, installation, any required relocations, all required maintenance or replacement, and sign removal and salvage, and be a complete-in-place item within the cost proposal.

4.33 Project Sequencing by Contracting Agency

The County reserves the right to direct the Contractor to schedule certain parts of the project or maintenance for completion before others. If so directed, the Contractor shall construct that portion of the project or maintenance when directed by the Project Manager.

4.34 Partial Acceptance

Partial acceptance of completed portions of the project is permitted and encouraged. When a portion of the Project is complete, tested, and ready to be able to provide service, the Contractor may request acceptance of that portion of the Project.

4.35 Weekly Construction Meetings

When requested by the County, the Contractor shall conduct weekly meetings during the duration of the project with County Personnel, to include but not be limited to the County Construction Project Manager, County Project Manager, and the Design Consultant. Meeting topics are to include the landscape construction schedule status, submittal status, required design/construction clarifications, issues with the public, traffic control plans and daily traffic control logs, and potential problems or concerns. Updated written project schedule(s) may be required by the County.

No separate payment for the above shall be made, and the work shall be considered incidental.

4.36 Working Hours

- 4.36.1 With the exception of emergency job order requests, the Contractor shall limit its operations to a normal 8½ hour work day Monday through Friday. The normal 8½ hour work day shall be considered to be from 7:30 am to 4:00 pm with a ½ hour lunch period during which the Contractor's operations may continue. The Contractor may submit a written request for alternate working hours, however, under no circumstances shall a normal work week exceed 42½ hours (including lunch periods). Written requests for alternate working hours shall be submitted to the Project Manager, and included in the Job Order Authorization. When

approved, alternate working hours shall be for the entire duration of job orders, with the exception of unexpected emergency conditions.

4.36.2 Requests for approval of overtime work shall be made in writing to the Project Manager by the Contractor a minimum of 24 hours prior to the scheduled start of such work, in non-emergency situations. The Project Manager shall approve or disapprove, in writing, overtime work proposed to be performed by the Contractor requiring inspection. The decision with regard to the type of work requiring inspection shall be the sole responsibility of the Project Manager. For the purposes of this section, overtime work shall be considered as all-time worked or proposed to be worked beyond the Contractor's normal 8 ½ hour work day, or any time worked at night, on Saturdays, Sundays, or holidays.

4.37 Dust Abatement

Contractor will be required to follow the regulations as defined in 20 NMAC 11-20 Airborne Particulate Matter for dust control requirements in Bernalillo County. The Contractor shall obtain the Surface Disturbance Permit Application and the Dust Control Plan permit from the City of Albuquerque, Environmental Health Department, Air Pollution Control Division. Such permits are per allowance in each job order.

4.38 National Pollutant Discharge Elimination System (NPDES)

When required in the Job Offer, the Contractor shall be responsible for fulfilling all necessary National Pollutant Elimination Discharge System (NPDES) requirements including, but not limited to, obtaining a NPDES Permit during landscape construction, filling out the Notice of Intent (NOI) application, and filling out the Notice of Termination (NOT) application. The Contractor shall also be responsible for preparation, implementation, and inspection reports for the Storm Water Pollution Prevention Plan (SWPPP). All items of work shall be paid for under the Job Order for "NPDES Storm Water Permitting and SWPPP" or the exemption item as applicable for each Job Order. Any check dams, silt fences or other Best Management Practices (BMPs) that are required in the approved SWPPP shall be included in and are incidental to the work and shall be paid for under the item for "NPDES Storm Water Permitting and SWPPP."

4.39 Threatened or Endangered Species

If any threatened or endangered species or their habitats are discovered during landscape construction, or maintenance work will cease immediately, and the EPA will be notified in order that appropriate measures can be taken in accordance with the Endangered Species Act.

4.40 Disposal of Construction Materials

Construction material and waste products, including machinery leaking, maintenance materials and spills, will be contained and properly disposed prior to project completion.

4.41 Weather Delays

If adverse weather conditions are the basis for a request for additional time, such request shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled landscape construction.

4.42 Video Taping Prior to Start of Landscape Construction

Contractor shall video tape the Project areas prior to the start of landscape construction to provide documentation of existing conditions. Videotaping shall be color DVD format, performed between 10:00 am and 2:00 pm during periods of full sun exposure. Videotaping may be accomplished from a moving vehicle when appropriate, provided the vehicle speed does not exceed 5 mph and no portion of the vehicle obscures the videotaped area. Quality and detail of the videotaping shall be acceptable to the County. All video tapes become the property of the County. Costs associated with videotaping

shall be considered incidental to the Project and shall be delivered to the County within seven (7) days from the date the Notice to Proceed is issued. The Contractor shall not receive any payment of the mobilization bid item if the video tapes of the project area were not previously provided to the County Project Manager.

4.43 Submittals

4.43.1 The Contractor will submit four (4) copies of all required submittals. Submittals will be made for the following items:

- 4.43.1.1 Concrete Mix Designs*
- 4.43.1.2 Asphalt Mix Designs*
- 4.43.1.3 Structural Steel Materials
- 4.43.1.4 Permanent signing, traffic signalization, and lighting items
- 4.43.1.5 Water and Sewer system pipe and appurtenances
- 4.43.1.6 Additional items as required

*If the proposed mix design is already on file with the County Materials Laboratory the Contractor need only submit a memorandum identifying the proposed design.

4.43.2 The Contractor will make submittals as early in the project as possible and in such a manner as to not cause a delay in the work. The County will be allowed two weeks for review unless reasonable justification can be made for additional time. Additional time required for review by other entities and a high level of complexity will be considered reasonable justifications for the purpose of this specification. The additional time for these factors will be as agreed upon or mandated by other agreements and the Contractor must allow for this additional time when making the submittal. Any additional time or compensation for unjustified time beyond the two weeks must also be reasonable, justified, mutually agreed upon and approved by Change Order.

4.43.3 Fabrication will not be started until reviewed and approved submittals have been received by the Contractor.

4.43.4 Any and all variations from Contract Documents or substitutions must be specifically identified as such on the submittal by the Contractor. Any variations or substitutions not specifically noted on the submittal will not be considered as approved as part of the overall submittal approval. Approval of submittals shall not relieve the Contractor of any provisions of the Contract Documents or applicable laws or regulations. The Contract Documents can be amended only by Change Order, Section 4.23.

4.43.5 Additional information, manufacturer's literature and submittals may be required at the discretion of the Project Manager.

4.44 Existing Utilities

4.44.1 It is the Contractor's responsibility to coordinate with the respective utility companies for existing line spot locations. Any broken lines resulting from the Contractor's landscape construction efforts will be repaired by the Contractor. The cost incurred shall be borne by the Contractor and no separate measurement for payment will be made and shall be considered incidental to the landscape construction costs of the Project.

4.44.2 The Contractor shall support and protect all exposed utilities which are in service during landscape construction activities. No separate measurement or payment will be made and shall be considered incidental to the construction of the Project.

4.45 Maintenance and Cleaning

The Contractor shall provide daily maintenance and cleaning of the landscape construction site. Diesel, oil and any other spills are to be cleaned up immediately before proceeding with construction

and shall be disposed of in a manner that meets the satisfaction of the Project Manager.

4.46 Existing Walls or Fences

Any existing walls or fences damaged or removed by the Contractor during the landscape construction, maintenance activities shall be repaired or replaced by the Contractor to an equal or better condition at the Contractor's expense.

4.47 Final Acceptance of Work

Immediately prior to submission of the monthly pay estimates and upon completion of all currently completed work by the Contractor, an inspection of the work accomplished will be made and all quantities will be measured jointly by the County or its agent and the Contractor subject to the terms and conditions contained herein. Payment will be made based on actual quantities measured in place including any supporting documentation. Final acceptance of the Project to be based on Project Manager's certification of substantial compliance with plans and specifications and concurrence by the County.

4.48 Survey Data

The Contractor shall provide to the County survey data in a digitized form. Data shall be in one of the following formats: Pacsoft Coordinate file, ASCII point file with unique point numbers, AutoCAD drawing, or DXF file. The data files shall include point descriptors of all prominent features including, centerline, shoulder line, toe of slope, flowlines, inverts, transitions, profiles, structure locations, and any other information necessary to properly characterize the project and to generate areas and volumes as required for Contract payments. This provision includes Pit Layout staking, paneling, and cross-sectioning of borrow pits and therefore supersedes Section 801.13 of the NMDOTSSHBC to that extent only. This specification will apply to earthwork related surveys only when the plan quantity of excavation or borrow exceeds 10,000 cubic yards. All survey work shall be done under the supervision of a New Mexico licensed surveyor. The Contractor shall certify that the data is correct and data entry, if required, has been checked for any input errors. This work shall be provided for all Contract items which involve Construction Surveying to determine quantities required, directly or indirectly, for payment and completion. The County will be allowed to observe Construction Surveying in progress and/or provide for independent verification of Construction Surveying at the discretion of Bernalillo County. Adjustment of quantities will be allowed based on the results of independent verification when used. This work shall be considered incidental to the Construction Surveying Item, when contained in the Job Order, otherwise this work shall be considered incidental to the completion of the applicable Cost Proposal Items which require Construction Surveying. The Contractor will absorb the cost of independent verification if it is required due to neglect or misrepresentation on the part of the Contractor or their representative. The surveys will be required to be tied to an established coordinate system.

[END OF SECTION 4]

**SECTION 5
PROPOSAL FORMAT**

5.1 Proposal Format: This section describes the format and organization of the Offerors responses. **Failure to conform to these guidelines may result in the disqualification of the proposal.**

5.1.1 NUMBER OF RESPONSES: Offeror's may submit only one (1) proposal.

5.1.2 PROPOSAL FORMAT: Format. Each file uploaded to the eProcurement System shall be in Optical Character Recognition (OCR) searchable PDF format unless otherwise indicated. Do not encrypt files and do not password protect the documents submitted.

5.1.4 PROPOSAL ORGANIZATION: The proposal is to be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated below.

5.1.4.1 File #1 SUBMISSION OF TECHNICAL PROPOSAL

A. Table of Contents

B. Completed Statement of Qualifications with Attachments (see pages 36 to 55).

Each Offeror must answer all of the following questions and provide all requested information and Attachments, where applicable. Any prospective Offeror failing to do so may be deemed to be not responsive and not responsible with respect to this RFP at the sole discretion of the County. Each Offeror must have a current and active New Mexico contractor's license at the time of submittal and must submit this Statement of Qualifications with all portions completed.

C. Agreement, Insurance and Bonding Certification Form (see page 68)

D. Surety Reference Letter (see page 69 for sample letter)

E. SFPA-1 / Subcontractor Listing (see page 78)

F. Subcontractor Supplemental Form (see page 79)

G. Submittal Letter. Proposals must be accompanied by a Submittal Letter Form (Appendix C, uploaded separately),

H. Campaign Contribution Disclosure Form: In accordance with Appendix D (Uploaded separately) Offeror's must comply with Procurement Ordinance, Chapter 2, Article V, Division 1-3, Section 2-390 (b), pertaining to the disclosure of campaign contributions made to an applicable public official of a local public body.

Offeror(s) shall submit the "Campaign Contribution Disclosure Form" with their proposal submittal. Any Offeror who fails to comply with this requirement will be disqualified, no exceptions. NOTE: THIS FORM SHALL BE SUBMITTED IN ITS ORIGINAL FORMAT AND SHALL NOT BE MODIFIED OR CHANGED IN ANY WAY.

File 2 COMPLETE COST RESPONSE

A. Offerors are required to complete the Cost Proposal Pricing (see Section 8), which shall be submitted using the eProcurement System at <https://bernco.bonfirehub.com/login>.

B. Resident Business Certificate or Resident Veteran Business Certificate (see Section 1.31 for additional information).

C. Pay Equity Documentation

D. Unfair Business Practices Disclosure Form

E. Offerors Additional Terms and Conditions

**If no exceptions or modifications have been included and Offeror has explicitly indicated acceptance to the terms and conditions on the “Submittal Letter Form” and no additional proposed Terms and Conditions are included, so state on a single sheet, following the tabbed divider.

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. All discussion of proposed costs must occur only in File #2.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

(This Space Intentionally left blank)

STATEMENT OF QUALIFICATIONS

1. ORGANIZATION

Name _____

Address _____

Principal Office _____

Corporation (if corporation, where incorporated) _____

Partnership Sole Proprietorship Joint Venture

Other _____

- a. How many years has your organization been in business as a licensed Contractor?
_____ years
- b. How many years has your organization been in business under its present business name? _____
- c. Under what other or former names has your organization operated? _____

- d. Is organization a parent or subsidiary or any other company? No
 Yes Name and relationship with all such companies: _____

2. LICENSING REQUIREMENTS

Name of license holder (or qualifying party) exactly as on file with the State of New Mexico Construction Industries Division (CID):

License Classification(s): _____

License Code: _____ License Number: _____

Registered Contract Number (Dept. of Workforce Solutions) _____

Issue Date: _____ Expiration Date: _____

- a. Has the firm's contractor's license ever been suspended or revoked by the CID or by the appropriate licensing agency in any other state:
 No, free of suspension or revocation Yes (Explain) _____

- b. Does your firm hold all applicable Business licenses required by State (New Mexico) or Local (City of Albuquerque, Bernalillo County) Law?
License Number: _____ Jurisdiction: _____
Name of License Holder, exactly as it appears on file with jurisdictional authorities.

Issue Date: _____ Expiration Date: _____

Issue Date: _____ Expiration Date: _____
- c. Is your firm registered with the State of New Mexico, State Purchasing Department with a Resident Preference Number?
 No Yes

Resident Preference Number: _____ Issue Date: _____

Name of Number holder, exactly as it appears on file with State Purchasing.

- d. Has your firm ever been debarred from public works, federal, state or local jurisdictions:
 No Yes (Attach explanation)

3. EXPERIENCE

- a. Complete **ATTACHMENT A** – Landscape Construction Services Experience Questionnaire.
- b. Provide five (5) local project summaries that demonstrate your landscape construction experience with landscape construction services. Summaries should show examples of projects and other items as stated in Scope of Services. Include a smallest and largest project to demonstrate the range of response for the general scope and nature of this RFP. (Complete **ATTACHMENT B** for **five (5)** projects.)
- c. State the highest annual amount of landscape construction work performed during the past **five (5)** years: _____
- d. On **ATTACHMENT C**, list major landscape construction projects (over \$250,000) your organization has in progress, giving the name of the project, owner, architect, contract amount, percent complete and scheduled completion date.
- e. List the categories of work that your organization normally performs with its own forces:

- f. List the categories of work that your organization normally subcontracts to other companies:

4. KEY PERSONNEL EXPERIENCE

- a. Provide a summary of the background and experience of principal members of the firm’s organization including the officers and supervisors. (Attach Resume(s) in format shown in **ATTACHMENT D**).
- b. Does your assigned Project Manager(s) or Superintendent(s) have the following minimum qualifications and experience? (Attach Resume in format shown in **ATTACHMENT D**).
- i. At least **ten (10)** years experience in landscape construction?
 Yes Number of Years: _____ No
- c. List the individuals your firm will assign as your Superintendents and Project Foremen and their experience in landscape construction:
- Name: _____ Years Experience: _____
- Name: _____ Years Experience: _____
- Name: _____ Years Experience: _____
- Name: _____ Years Experience: _____
- Name: _____ Years Experience: _____

5. CAPACITY AND CAPABILITY TO PERFORM THE WORK

- 1. Total number of current employees stationed in Albuquerque metro area:
Project Managers _____ Estimators _____
Superintendents _____ Foremen _____
Operators _____ Administration _____
Others _____

List relevant major equipment owned by your company available for projects:

- 2. Does your firm have the immediate capacity to perform the work required for projects as defined in paragraph 3b above at the following levels?
\$0.00 to \$100,000 No Yes
\$0.00 to \$300,000 No Yes
\$0.00 to \$500,000 No Yes
Over \$500,000 No Yes, up to \$ _____
- 3. Please list all projects currently under contract with Bernalillo County. None
 See **ATTACHMENT E** for listing

6. SURETY

- 1. Firm's current surety company: _____
Will this surety company be used for the landscape construction contract for this project?
 Yes No, explain: _____
Contact Agent: Name: _____ Telephone: _____
Years utilizing this surety: _____ Maximum Capacity: _____
Aggregate Total of current surety in force: _____

- 2. Is the surety company to be used on this project licensed to do business in the State of New Mexico?
 Yes No, explain: _____
- 3. Has your firm had any landscape construction contracts taken over by a surety for completion in the past **three (3)** years?
 No Yes, provide number of contracts taken over and explain each (complete **ATTACHMENT M**).
- 4. Has your firm used other surety companies within the last **five (5)** years?
 Yes (list) No

_____ Surety Company	_____ Contact
_____ Surety Company	_____ Contact
_____ Surety Company	_____ Contact

7. SAFETY

- 1. Does your firm have a written safety program compliant with current OSHA Standards, 29 CFR 1926-1910?

No Yes

Provide copy of your firm's written safety program as **ATTACHMENT F**.

- 2. Do your current employees have 10-hour OSHA card in Construction Industry Safety?
 Yes No, explain: _____

- 3. Provide a list of key safety personnel including the designated safety manager who will be assigned to Bernalillo County, and list specific duties (attach Resume in format shown in **ATTACHMENT D**).

Name/Job Title/Duties:

_____/_____/_____
 _____/_____/_____

- 4. Provide documentation from your insurance company of the firm's average Experience Modification Rate for the past three (3) years (INCLUDE SUPPORT DOCUMENTATION WITH **ATTACHMENT G**).

_____/_____/_____

- 5. Provide documentation from your insurance company of the firm's average Recordable Incident Rate for the past three (3) years (INCLUDE SUPPORT DOCUMENTATION WITH **ATTACHMENT G**).

_____/_____/_____

- 6. Is your firm free of committing serious or willful violations of federal or state safety laws as determined by a final non-appealable decision of a court or governmental agency?
 Yes No, explain: _____

8. INSURANCE & CLAIMS HISTORY

- 1. Firm's current insurance companies:

Company Name	Address
--------------	---------

Agent Name	Telephone Number
------------	------------------

Company Name	Address
--------------	---------

Agent Name	Telephone Number
------------	------------------

- 2. Provide a statement of insurance losses incurred during the past **five (5)** years and of workmen's accidental deaths during that period. (Include with **ATTACHMENT G**).

- 3. Is your firm free from any court judgments, pending litigation, arbitration and final agency decisions filed within the last **five (5)** years in a landscape construction related matter in which the contractor, or any officer, is or was party?
 Yes No, explain: _____

- 4. Has your firm during the past **five (5)** years been free of a determination by a court of competent jurisdiction that it filed a false claim with any Federal, State, or local government entity?
 Yes No, explain: _____

- e. Does your firm have the ability to provide the required insurance as defined in the "Insurance Requirements" as set forth in this RFQ?
 Yes No, explain: _____

9. QUALITY ASSURANCE

1. Does your firm have a written Quality Assurance Program? Yes No
2. Provide copy of your firm's written Quality Assurance Program as **ATTACHMENT H**.
3. Provide a statement of specific measures that your firm will utilize to ensure that the quality of materials utilized on projects are in compliance with plans and specifications:

4. Provide a statement of specific measures that your firm will utilize to ensure that the workmanship on projects will conform to the requirements of plans and specifications:

10. PROJECT SCHEDULING

- a. Does your firm use computerized scheduling? Yes No
- b. If yes, which programs and versions are used? Please list.
- c. Has the firm been involved with a large (greater than \$500,000) landscape construction project within the past five (5) years in which the schedule was not met? Yes No

If yes, list projects:

(1) Project: _____
Reason for Delay: _____

(2) Project: _____
Reason for Delay: _____

(3) Project: _____
Reason for Delay: _____

- d. Has the firm been assessed liquidated damages due to scheduling for any project in the past **five (5)** years? Yes No

If Yes, list projects:

- e. Has the firm ever defaulted on a contract? Yes No
If yes, explain:

11. LABOR CODE VIOLATIONS

1. Has your firm, during the past **five (5)** years, been free of any determinations by a court or an administrative agency of repeated or willful violations of law and/or regulations pertaining to the payment of prevailing wages or employment of apprentices of public works projects?

Yes, please provide documentation to substantiate this as **ATTACHMENT I**.
 No, explain: _____

2. Is the firm free of all Subcontractor Fair Practices Act violations for the past **five (5)** years?
 Yes No, explain:

3. Does your firm abide by applicable laws and/or regulations pertaining to the payment of prevailing wages or employment of apprentices of public works projects?
 Yes No, explain:

12. AFFIRMATIVE ACTION POLICY

- a. Does your firm have an active Affirmative Action Policy? Yes No
b. Provide your current policy as **ATTACHMENT J**.

13. MANAGEMENT PLAN

Provide a written Management plan up to five (5) pages to include, among other items, the following as ATTACHMENT K:

1. Please describe how you would manage Projects, including staffing, technical approach to the projects and your project scheduling, should you be awarded any landscape construction projects.
2. Do you support any opportunity for value engineering and the estimated cost savings and accelerating the schedule?

14. REFERENCES

Please include any references, awards, or other acclamations for your firm as it relates to the services requested in this RFP (**ATTACHMENT L**).

15. CONTACTOR'S COMMENTS

- a. Please provide further explanation of items indicated requiring explanation, or other additional information to further explain any of the questions asked in this Qualification Statement as **ATTACHMENT M**.

THE UNDERSIGNED CERTIFIES THAT ALL OF THE QUALIFICATION INFORMATION SUBMITTED WITH THIS FORM IS TRUE AND CORRECT.

Name and Title

Firm Name

Signature

Address of Firm

E-mail address

City, State, Zip Code

Telephone Number

**STATEMENT OF QUALIFICATIONS
ATTACHMENT A**

REFERENCE: 3.a. Landscape Construction Services Experience Questionnaire.

1. Has Contractor constructed a 3-acre or larger athletic field within the last 2 years?
Yes _____
No _____
2. Has Contractor constructed a 3-acre or larger park within the last 2 years?
Yes _____
No _____
3. Has Contractor installed an Irrinet system within the past 2 years?
Yes _____
No _____
4. Has Contractor installed a 3-inch or larger irrigation mainline within the last 2 years?
Yes _____
No _____
5. Has Contractor constructed an irrigation system that utilizes a well pump in the last 2 years?
Yes _____
No _____
6. Has Contractor constructed an irrigation system that utilizes a booster pump in the last 2 years?
Yes _____
No _____
7. Has Contractor constructed a flood irrigation system(s) for agricultural fields within the last 2 years?
Yes _____
No _____
8. Has Contractor installed ¼-mile or longer crusher fine or similarly surfaced trail within the last 2 years?
Yes _____
No _____
9. Has the Contractor used City of Albuquerque Standard Specifications on more than 25 projects?
Yes _____
No _____
10. Has the Contractor constructed any landscape projects for Bernalillo County having a value of more than \$50,000?
Yes _____
No _____
11. Has the Contractor constructed any landscape projects for Bernalillo County having a value of more than \$300,000?
Yes _____
No _____
12. Has the Contractor constructed any open space landscape projects for Bernalillo County or the City of Albuquerque having a value of more than \$50,000?
Yes _____

No _____

13. Has the Contractor constructed any artificial turf fields having a value of more than \$30,000?

Yes _____

No _____

14. Has the Contractor constructed any landscape projects that involved community volunteers as part of the design or construction process?

Yes _____

No _____

**STATEMENT OF QUALIFICATIONS
ATTACHMENT B**

REFERENCE: 3.b. Provide five (5) project summaries.

Complete one form for each project

PROJECT DESCRIPTION

Project Name: _____ Contact Name: _____
Project Type: _____ Contact Title: _____
Owner _____ Contact Phone No.: _____

ENGINEER/LANDSCAPE ARCHITECT

Company: _____ Contact Phone Number: _____
Contact Name: _____ Contact Title: _____
Type of Landscape Construction: _____

Summary of landscape construction project, including size and type of infrastructure constructed. Also, describe coordination with agencies and/or neighborhood associations: _____

Project Start Date: _____ Completion Date: _____
Original Contract Amount: \$ _____ Original Contract Duration (days) _____
Final Contract Amount _____ Final Contract Duration (days) _____
With all Change Orders: \$ _____ With all Time Extensions: _____

PROJECT EXECUTION

Were Liquidated Damages Assessed on this Project? No Yes, days _____ \$ _____

Percentage of Work Subcontracted: _____% Contract Type: Competitive Bid
 Negotiated Lump Sum
 Guaranteed Maximum
 Other (Describe)

Major Subcontractors:

List by Name and Percentage

Asphalt _____ %
Concrete _____ %
Mechanical _____ %
Electrical _____ %
Plumbing _____ %
Other _____ %

**STATEMENT OF QUALIFICATIONS
ATTACHMENT C**

REFERENCE: 3.d. Major landscape construction projects (over \$250,000) currently under contract.

PROJECT:

OWNER:

ENGINEER/LANDSCAPE ARCHITECT:

CONTRACT AMOUNT:

PERCENTAGE COMPLETE:

PROJECTED COMPLETION:

PROJECT:

OWNER:

ENGINEER/LANDSCAPE ARCHITECT:

CONTRACT AMOUNT:

PERCENTAGE COMPLETE:

PROJECTED COMPLETION:

PROJECT:

OWNER:

ENGINEER/LANDSCAPE ARCHITECT:

CONTRACT AMOUNT:

PERCENTAGE COMPLETE:

PROJECTED COMPLETION:

PROJECT:

OWNER:

ENGINEER/LANDSCAPE ARCHITECT:

CONTRACT AMOUNT:

PERCENTAGE COMPLETE:

PROJECTED COMPLETION:

**STATEMENT OF QUALIFICATIONS
ATTACHMENT D**

REFERENCE: 4.a., 4.b., 7.c. Resumes.

Attach one (1) page resumes of principal members of the firm's organization including the officers and supervisors, project manager, project superintendent, safety program manager, and other key personnel.

EDUCATION

High School, College, Trade Schools, Trade Seminars, Trade/Management Specialized Courses, etc.

RELATED EXPERIENCE

Related experience should include the Position Title, Duties and Responsibilities, Major Accomplishments, and Number of Personnel Supervised

Related experience must cover, at a minimum, the time period identified in the Statement 4b(i).

PROJECT EXPERIENCE

Identify project experience requested in the Statement at 4b(i). Include the Project Title and Location.

Other information that demonstrates the individual's strengths for this project.

Project Professionals and Project Owner References may be included.

**STATEMENT OF QUALIFICATIONS
ATTACHMENT E**

REFERENCE: 5.c. Project(s) currently under contract with the County.

PROJECT TITLE:

LOCATION:

START DATE:

PROJECTED COMPLETION:

COUNTY PROJECT MANAGER:

PROJECT TITLE:

LOCATION:

START DATE:

PROJECTED COMPLETION:

COUNTY PROJECT MANAGER:

PROJECT TITLE:

LOCATION:

START DATE:

PROJECTED COMPLETION:

COUNTY PROJECT MANAGER:

PROJECT TITLE:

LOCATION:

START DATE:

PROJECTED COMPLETION:

COUNTY PROJECT MANAGER:

**STATEMENT OF QUALIFICATIONS
ATTACHMENT F**

REFERENCE: 7.a. Copy of Firm's Written Safety Plan.

**STATEMENT OF QUALIFICATIONS
ATTACHMENT G**

REFERENCE: 7.d., 7.e. Provide documentation from insurance company for the past three (3) years.

REFERENCE: 8.b. A statement of insurance losses during the past five (5) years and any workmen's accidental deaths during that period.

**STATEMENT OF QUALIFICATIONS
ATTACHMENT H**

REFERENCE: 9.b. Copy of Firm's Written Quality Assurance Program.

**STATEMENT OF QUALIFICATIONS
ATTACHMENT J**

REFERENCE: 12.b. Copy of Firm's Affirmative Action Policy.

SUBMIT ONLY ONE (1) COPY WITH SUBMITTAL PACKET

**STATEMENT OF QUALIFICATIONS
ATTACHMENT K**

REFERENCE: 13. Management Plan.

Limited to a maximum of five (5) pages of text/photos, single-sided, in 8 ½" x 11" format.

**STATEMENT OF QUALIFICATIONS
ATTACHMENT L**

REFERENCE: 14. References.

Additional letters of recommendation from previous clients, awards, or other acclamations in support of services requested in this RFP.

**STATEMENT OF QUALIFICATIONS
ATTACHMENT M**

REFERENCE: 6.c. and 15. Additional Information.

Additional written explanations or comments required for clarification of items contained in the Statement of Qualifications.

<u>ITEM REF NUMBER</u>	<u>COMMENTS / ADDITIONAL EXPLANATION</u>
----------------------------	------------------------------------------

[END OF SECTION 5]

SECTION 6 EVALUATION OF OFFERS

6.1 Evaluation Process

- 6.1.1 The Evaluation Process section contains specific information about the process of evaluating Offeror proposals.
- 6.1.2 Notice of Non-Responsiveness – For any proposal submitted which is deemed non-responsive the Offeror will be notified in writing of such determination by the Purchasing Department.
- 6.1.3 Selection Process - The Selection Committee (“Committee”) approved by the County Manager will review each Offerors proposal. Points will be allocated, as outlined in Section 6.2 of this RFP, by each member. Each member’s point totals will be translated into a numeric ranking of all proposals. The individual member rankings will be totaled together to determine the overall ranking of proposals. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposal through oral presentations (interview) or the provision of information (either orally or written) deemed necessary to assist in the evaluation process. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors. Offerors are advised that the Committee, at its option, may enter into the negotiation process with the highest ranked Offeror on the basis of the evaluation of the written proposals only, and may not require discussion and/or interviews. Upon completion of the selection process, the Committee shall recommend award of contract to the County Commission or their designee for approval. Each responsive Offeror will be notified in writing as to their status following the selection process.
- 6.1.4. Status Notification of Finalists/Non-Finalists – Each responsive Offeror will be notified in writing about the status of their proposal. This notification will include information regarding whether or not their proposal has been selected for the interview or negotiation process. Finalists will be those Offerors whose proposals have been selected to continue in either the interview or negotiation process. Non finalists are those Offerors whose proposals have not been selected to continue in either the interview or negotiation process.
- 6.1.5. Best and Final Offers From Finalist(s) – Finalist(s) may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers. When applicable, the notification to Finalist(s) who have been selected to submit a best and final offer will include the date and time, the best and final offer must be submitted.
- 6.1.6. Interviews with Finalists – If applicable the notices for the Finalists who have been selected for interviews, will include the interview date and time. The interview location is at the discretion of the Committee. Interview questions will be sent to finalists prior to interview by the Purchasing Department. Interview scoring will total 100 points. Each member’s point totals will be translated into a numeric ranking of all interviewed Finalists. The individual member rankings will be totaled together to determine the overall ranking of Finalists.
- 6.1.7 Rankings for the evaluation of written proposals are weighted 45% and ranking from the interviews are weighted 55% in determining the final selection as shown in Appendix A. The Offeror with the highest combined ranking (lowest numerical score) from the interview shall be recommended for award.
- 6.1.8 Negotiations – The County will begin negotiations with the highest ranked Offeror(s) following Finalist notification. Actual costs shall be negotiated based upon specific services, reimbursable expenses, and specific successful Offeror requirements. If negotiations are successful, the County shall prepare an Agreement for approval by the County Commission or its designee. If an agreement on terms cannot be reached within a reasonable time the County shall terminate negotiations and begin negotiations with the next firm on the ranking

list. This process will continue until an Agreement has been negotiated with one of the firms on the ranking list. If an Agreement cannot be negotiated with the firms on the ranking list, the County may choose to negotiate with other qualified Offerors scored by the Committee or to terminate negotiations.

6.2 Evaluation Criteria

The completed Statement of Qualification proposal packages will be reviewed by the Committee for accurateness and completeness. Each Offeror must answer all the questions and provide all requested information, where applicable. The Committee reserves the right to waive minor irregularities. The following evaluation factors, not listed in order or significance, will be used by the Committee in recommending contract award to the County Commission or its designee. The proposal factors will be rated on a scale of **0-100** with weight relationships as stated below.

6.2.1 Company Past Performance (Statement of Qualifications submittal) 30 points

Years in landscape construction industry; experience in public landscape construction; firm's experience with similar projects target/actual contract amount, target/actual schedule; liquidated damages; client satisfaction; safety rates; compliance with local laws and regulations; insurance and claims history; bonding capacity.

6.2.2 Personnel Past Performance (Statement of Qualifications submittal) 20 points

Experience of principal members and key personnel (Superintendent, project manager, estimator, safety officer) in landscape construction industry; equipment owned and operated; work performed with own forces; percentage of work subcontracted; personnel experience with target/actual contract amount and target/actual schedule; client satisfaction; safety compliant; compliance with local laws and regulations.

6.2.3 Management Plan (Statement of Qualifications submittal) 20 points

Overall technical and organizational capability including management team, staffing, and scheduling approach to projects; QA/QC plan; safety program.

6.2.4 Conformance to the Requirements of the RFP 5 points

Evaluation of the Offerors submittal, in terms of completeness of information provided.

6.2.7 Cost 25 points

Cost shall be based on the total sum of items 1-174 listed on the cost sheet. The cost score for each Offeror shall be established by the following:

$$\frac{\text{Cost of Lowest Offeror}}{\text{Cost of this Offeror}} \times \text{Maximum Cost Score (25)} = \text{Cost Score of this Offeror}$$

6.3 Application of Preference:

6.3.1 Application of Preferences (Point-Based): The preference points shall be calculated by multiplying the applicable preference percentage (see Appendix B for applicable preference percentage) by the "Total Possible Points" in 6.2 above. Only those Offerors who provide the required preference certificate and the certification form in accordance with Section 1.31, will receive additional points, which will be added to their already evaluated score.

6.3.2 Application of Preferences: Weight-Based (applicable only if an interview is held): Rankings for the evaluation of written proposals are weighted 45% and ranking from the interviews are

weighted 55% in determining the final selection as shown in Appendix B. The preference points shall be calculated by multiplying the applicable preference percentage (see Section 1.31 for applicable preference percentage) by the “weighted points”. Only those Offerors who provide the required preference certificate and the certification form in accordance with Section 1.31, will receive additional points, which will be added to their already evaluated score.

Note: If an interview is not held, the preference points will be based on the “Total Points” of Section 6.2 only.

[END OF SECTION 6]

SECTION 7
SUBCONTRACTORS FAIR PRACTICES ACT COMPLIANCE

- 7.1** Some Public Works Projects are subject to the provisions of the Subcontractors Fair Practices Act, Sections 13-4-31 et seq., NMSA 1978. The listing threshold is \$5,000 or 1/2 of 1% of the estimated Project cost not including alternates, whichever is greater.
- 7.2** **List of Subcontractors Required:** The Contractor shall define the categories of work done by each subcontractor in the Job Order offer and shall list on **SFPA-1 Form / Subcontractor Listing** (see **Appendix G, Sample Forms, page 79**), no more than one subcontractor for each such category, provided however, that such listing shall not include subcontractors whose work does not exceed the threshold dollar amount given in paragraph 7.1 above. Such list shall give the name and city or county of the place of business of each subcontractor under subcontract to the Contractor who will perform work or labor or render service to the Contractor in an amount exceeding the threshold stated in paragraph 7.1. Those subcontractors whose work does not exceed the amount given in paragraph 7.1 shall be listed in accordance with Part 2, Section 2.3.1. A completed Job Order Authorization Form submitted by a Contractor who fails to comply with this Paragraph 7.2 is a non-responsive offer which shall not be accepted.
- 7.3** No Contractor whose Job Order offer is accepted shall permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original offer without the written consent of the County.
- 7.4** No Contractor whose Job Order offer is accepted shall sublet or subcontract any portion of the Work in an amount exceeding the threshold amount given in paragraph 7.1 above where the original Job Order offer did not designate a subcontractor, unless:
- 7.4.1** The Contractor received no bid for that category – Note: the Contractor must designate on the list of subcontractors (**SFPA-1 Form / Subcontractor Listing**) that "no bid was received", or
- 7.4.2** The Contractor received only one bid for that category – Note: the Contractor must designate on the list of subcontractors (**SFPA-1 Form / Subcontractor Listing**) that "only one bid was received" together with the name of that subcontractor. This designation shall not occur more than one time on the list of subcontractors), or
- 7.4.3** The Work is pursuant to a Change Order that causes changes or deviations from the original Contract.

If a contractor fails to list a subcontractor in excess of the listing threshold and he does not state that no bid was received or that only one bid was received, he represents that he is fully qualified to perform that portion of the work himself and that he shall perform that portion of the work himself. If after the award of the Job Order the contractor subcontracts any portion of the work, except as provided in the Subcontractors Fair Practices Act, the contractor shall be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided in Section 13-4-41 NMSA 1978.

- 7.5** **Delays Attributable to Hearings Required by the Subcontractors Fair Practices Act:** In the event a hearing is required pursuant to the provisions of the Subcontractors Fair Practices Act and a delay in the Work is caused as a result of a subcontractor protesting its substitution, the **Contractor** shall not be entitled to an increase in the Contract Price or Contract Time.

[END OF SECTION 7]

SECTION 8

COST PROPOSAL

UPLOADED SEPARATELY

[END OF SECTION 8]

SECTION 9

DRAFT AGREEMENT

MULTI-UNIT ON-CALL LANDSCAPE CONSTRUCTION SERVICES

THIS AGREEMENT is made and entered into on the date last entered below, by and between the Bernalillo County a political subdivision of the State of New Mexico (hereinafter called "Owner" or "County"), and _____ (hereinafter called "Contractor"), whose address is _____.

WHEREAS, the County issued a Request for Proposals #20-22-AS, titled "Multi-Unit On-Call Landscape Construction Services", attached hereto as Exhibit A and by this reference made a part of this Agreement; and

WHEREAS, the Contractor submitted its proposal, dated December 1, 2021, in response to RFP #20-22-AS, which proposal is attached hereto as Exhibit B and by this reference made a part of this Agreement; and

WHEREAS, the County Selected Contractor's qualifications submittal as being one of the most advantageous; and

WHEREAS, the County desires to enter into a written agreement with the Contractor for "Multi-Unit Civil On-Call Landscape Construction Services" and the Contractor is willing to provide such services.

WITNESSETH:

ARTICLE 1

THE CONTRACT DOCUMENTS

1.1 The Contract Documents, and the order of precedence are as follows: This Agreement including Exhibits A and B and any subsequently awarded Job Orders, Modifications, Addenda, Special Provisions, Supplemental General Conditions, General Conditions, Supplemental Technical Specifications, Specifications, Drawings and Standard Drawings, together with any other documents. These form the Contract Documents, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein.

ARTICLE 2

THE WORK OF THIS CONTRACT

- 2.1 That for and in consideration of the mutual covenants and agreements herein contained to be well and faithfully performed, the parties hereto agree as follows:
- 2.2 The Contractor, under the terms and conditions in this Agreement agrees to perform for the Owner Construction Services, on an as needed basis, as described in the Exhibit A, Section 4, Scope of Services and Specifications of RFP #20-22-AS, and more fully described in the Scope of Work for each individually awarded Job Order project.
- 2.3 Owner does not guarantee any number of projects to be awarded to Contractor under this Agreement. The Contractor agrees and understands that failure to perform the Work to the satisfaction of the Owner may affect future selections to perform subsequent Job Orders under this Agreement.
- 2.4 Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete the Work for Landscaping of the referenced Project and any authorized supplemental work, all in strict accordance with the Contract Documents, including all Addenda thereto. During the term of this Agreement, each Project will be identified, and a scope of work will be provided by the Owner.
- 2.5 The Contractor shall execute the entire Work described in the Contract Documents, except to the

extent specifically indicated in the Contract Documents to be the responsibility of others.

- 2.6 In addition to specification listed in 5.1 below, the construction of all projects under this Agreement will be governed by and in accordance with the NMDOT Special Provisions, Project Drawings, and NMDOT Supplemental Specifications, if applicable.

ARTICLE 3

TERM OF AGREEMENT

- 3.1 This Agreement shall become effective upon the date of final execution and shall continue for a three (3), two (2) year periods for a total of six (6) years unless terminated by either party pursuant to the termination provisions contained herein.

ARTICLE 4

COUNTY'S RESPONSIBILITY

- 4.1 The County agrees, to perform all duties as enumerated below:
- (a) To issue individual Job Orders under these Contract Documents, for Landscape Construction services as needs arise. Such issuance of Job Orders shall be as set forth in Exhibit A, Section 3.
 - (b) To designate specific representatives to act in behalf of the County.
 - (c) To give thorough consideration to all sketches, working drawings, specifications, offers and other documents submitted by the Contractor, and to inform the Contractor in writing of its decisions within a reasonable time so as not to interrupt or delay the work of the Contractor.
 - (d) To give the Contractor written notice of any change in the quality or scope of the Project.
 - (e) To give prompt written notice to the Contractor of any defects in the Project which the Owner observes or otherwise becomes aware of.

ARTICLE 5

THE CONTRACTOR'S RESPONSIBILITY

- 5.1 CONTRACTOR AGREES, to perform all necessary Landscape Construction and related services in connection with awarded projects, and as enumerated below:
- (a) To respond and provide an offer to the Owner to individual Job Orders issued under these Contract Documents, for Construction services as needs arise. Such responses to individual Job Orders shall be as set forth in Exhibit A, Section 3.
 - (b) Owner's approval and acceptance of Job Order offers shall be in accordance with Exhibit A, Section 3.
 - (c) To perform, as needed, all services as set forth in Exhibit A, Section 4, Scope of Services and Specifications, and the Scope of Work as set forth in each individually awarded Job Order project.
 - (d) To attend such conferences with the Owner's designated representatives as may be requisite to a complete understanding of each identified project.
 - (e) Perform all services in strict compliance with the City of Albuquerque Standard Specifications for Public Works Construction, latest edition, as amended, and New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction, latest edition as amended, standard drawings, building codes and ordinances, if applicable, and other lawful regulatory authorities.
 - (f) Upon completion of all Job Order projects, provide to the Owner Record Drawings of the services performed.

ARTICLE 6

DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

- 6.1 Date of commencement and Substantial Completion shall be as established by the Owner in the written Job Order Authorization Form for each project. Contractor agrees to pay as liquidated damages the amount set forth in the Job Order Authorization Form for each consecutive calendar day beyond the agreed time that Substantial Completion is not achieved and for each consecutive calendar day beyond the agreed time that all punch list items are not completed or corrected. The Contract Time may only be changed by an approved Change Order.

ARTICLE 7

CONTRACT PRICE AND PAYMENTS TO CONTRACTOR

- 7.1 The Contract Price shall be set forth in the Job Order Authorization Form for each individual project based on the Cost Proposal pricing set forth in Section 8 of Exhibit B. The Contract Price constitutes the total compensation payable to Contractor for performing the Work. All duties, responsibilities, and obligations assigned to or undertaken by Contractor shall be at his expenses without change in the Contract Price. The Contract Price may only be changed by an approved Change Order in accordance with the provisions set forth in Exhibit A, Section 3.

ARTICLE 8

JOB ORDER AUTHORIZATIONS

- 8.1 The Contractor agrees to abide by the procedures set forth in Exhibit A, Section 3, Job Orders.
- 8.2 The Contractor agrees that all offers submitted for each individual Job Order project may not be withdrawn for a period of fifty-five (55) calendar days after being submitted to the Owner for consideration.
- 8.3 Every Job Order project \$25,000 or more excluding NMGRT, will require an individual Performance Bond and Labor and Material Payment Bond in the full project amount. The Contractor will furnish and maintain the bonds covering the faithful performance of each authorized Project and the payment of all obligations arising thereunder in an amount equal to 100% of the Contract Price. The sureties on such bonds shall be duly authorized to conduct business in the State of New Mexico and acceptable to the Owner, and shall be named in the current U.S. Department of the Treasury's Listing of Approved Sureties, Circular 570. The Contractor will require the Attorney-in-Fact who executes the required bonds on behalf of surety to affix thereto a certified and current copy of his Power of Attorney.
- 8.4 Every project in excess of \$60,000 or more excluding NMGRT, will require a Wage Decision issued by the New Mexico Department of Workforce Solutions which will be included with Job Order Authorization Form.
- 8.5 The Contractor agrees to provide all necessary subcontractors listings with each individual awarded Job Order project.
- 8.6 In cases of Emergency Work all verbal authorizations shall be followed up with proper written documentation including a completed Job Order Authorization Form, all bonds, insurance certificates and other necessary forms, as soon as possible after start of any emergency work.

ARTICLE 9

INSURANCE AND BONDS

- 9.1 The Contractor shall not commence any work under a Job Order until the bonds, if necessary, required in Exhibit A, Section 1.22.4, have been obtained and submitted to the County.
- 9.2 The Contractor shall not commence any work under this Agreement until the insurances required in Exhibit A, Section 1.22, have been obtained and the proper certificates (or policies) have been submitted to the County.
- 9.3 In cases of emergency work all bonds, insurance certificates and other necessary forms, as applicable, shall be submitted as soon as possible after start of any emergency work.

ARTICLE 10

MISCELLANEOUS PROVISIONS

- 10.1 License. Contractor must possess and maintain during the term of this Agreement a current and active New Mexico Contractor's license.
- 10.2 Amendments. Any changes to the terms of this Agreement will be mutually agreed upon by and between the Owner and the Contractor and shall be incorporated by written amendments to this Agreement.
- 10.3 Affirmative Action/Equal Employment Opportunity and Nondiscrimination. The Contractor hereby agrees to comply with the Affirmative Action/Equal Employment Opportunity and Nondiscrimination requirements as set forth in Exhibit A, Section 2.
- 10.4 Subcontractor's Fair Practices Act. Contractor will be required to adhere to the New Mexico Subcontractor's Fair Practices Act, Section 13-4-31 NMSA. In accordance, Contractor will be required to list each subcontractor proposed to perform services identified within the scope of work for each project whereby the amount of work to be performed by a subcontractor exceeds the project listing threshold.
- 10.5 Governing Law. The Contract Documents shall be governed by the laws of the State of New Mexico.
- 10.6 Severability. Any provision or part of the Contract Documents held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 10.7 Code of Conduct. The Contractor agrees to abide by the Code of Conduct (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.

ARTICLE 11

SUSPENSION OF WORK, TERMINATION

AND CANCELLATION

- 11.1 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.
- 11.2 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.

- 11.3 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.

[This space is intentionally left blank.]

SIGNATURE PAGE

Motion to approve General Contractor on Demand, this _____, day of _____, 2020.

BOARD OF COUNTY COMMISSIONERS

Charlene E. Pyskoty, Chair

Steven Michael Quezada, Vice Chair

Debbie O'Malley, Member

Adriann Barboa, Member

Walt Benson, Member

APPROVED AS TO FORM:

County Attorney

ATTEST:

Maggie Toulouse Oliver, County Clerk

CONTRACTOR:

By: _____

Date: _____

New Mexico Gross Receipts Tax Number

Federal Tax Identification Number

[END OF SECTION 9]

APPENDIX F

Agreement, Insurance and Bonding Certifications Form, Bond Forms & Sample Surety Reference Letter

- 1. Agreement, Insurance and Bonding Certifications Form**
- 2. Sample Surety Reference Letter**
- 3. Performance Bond**
- 4. Labor and Material Payment Bond**

**SAMPLE
SURETY REFERENCE LETTER**

LETTER MUST BE NOTARIZED AND STATE BONDING CAPACITY OF OFFEROR

CNA SURETY

Denver Office
10375 Park Meadows Drive Suite 300 Littleton CO 80124

April 20, 2007

Owner address details

RE: ABC Construction, Inc.
Prequalification Reference Letter

To Whom It May Concern:

In response to your request that ABC Construction, Inc. provide a prequalification letter regarding their ability to bond a project(s), we offer the following information about our relationship with this excellent organization.

ABC Construction, Inc. is valued account of the CNA Insurance family of companies, which includes Continental Casualty Company. They have built an excellent reputation of providing a quality product in a timely and very professional manner.

Continental Casualty Company has an A.M. Best rating of A and a financial strength classification of XV. As of 07/01/06, Continental Casualty Company also carries a U.S. Department of Treasury T-Listing of \$429,290,000. Continental Casualty Company is authorized to issue bonds in every state of the U.S. as an admitted insurer.

CNA Surety is willing to entertain single bonds in excess of \$25,000,000 with an aggregate Work On Hand limit of \$110,000,000 for ABC Construction, Inc. Provided that there are no substantial changes in the present conditions, we will continue to favorably consider granting surety credit within those parameters. Final approval of any Bid or Performance and Payment Bonds requested in the future will be contingent on the conditions existing at the time of the request, including but not limited to, bond forms and contract documents acceptable to the surety.

This letter is being provided as a reference only and is not intended to be any guarantee of or guarantee to issue any Bid, Proposal, Performance, Payment Bond(s) or similar type obligation for this company, but as an indication of our past experience and confidence in this firm.

Please advise if we can provide any further information in this matter.

Sincerely,

Attorney-in-fact

SAMPLE

PERFORMANCE BOND

PROJECT NAME: _____

JOB ORDER NO. _____

KNOW ALL MEN BY THESE PRESENTS:

THAT _____, as Principal, hereinafter called **Contractor**, and _____, a corporation organized and existing under and by virtue of the laws of the State of _____ and authorized to do business in the State of New Mexico, as a surety, hereinafter called **Surety**, are held and firmly bound unto the Albuquerque Bernalillo County Water Utility Authority as Obligee, hereinafter called **Owner**, in the amount of _____ Dollars (\$_____), for the payment whereof **Contractor** and **Surety** firmly bind themselves, their heirs, executors, administrators, successors, and assigns jointly and severally by these presents.

WHEREAS, **Contractor** shall by written agreement enter into a contract with **Owner** for the above-referenced Project, which Contract shall by reference be made a part hereof and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if **Contractor** shall faithfully perform and complete said Contract according to its terms and comply with all requirements of law, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

Surety hereby waives notice of any alteration or extension of time made by **Owner**.

Surety hereby consents to progress payments to **Contractor** and acknowledges that such payments shall not preclude **Owner** from showing the true character and quality of materials furnished or services rendered or from recovering from **Contractor** or **Surety** such damages as **Owner** may sustain by reason of deficiency in quantity or quality of materials or services furnished with respect to which a progress payment was made.

Whenever **Contractor** shall be, and is declared by **Owner** to be, in default under the Contract, **Owner** having performed its obligations thereunder; **Surety** may promptly remedy the default or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for submission to **Owner** for completing the Contract in accordance with its terms and conditions and, upon determination by **Owner** and **Surety** of the lowest responsible Bidder, arrange for a contract between such Bidder and **Owner** and make available as Work progresses (even though there should be default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price but not exceeding, including other costs and damages for which **Surety** may be liable hereunder, including but not limited to liquidated damages and additional consultant fees caused by the default, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph shall mean the total amount payable by **Owner** to **Contractor** under the Contract and any amendments thereto, less the amount properly paid by **Owner** to **Contractor**. Within fifteen (15) days of receipt of notice of default, the **Surety** shall notify the **Owner** of the **Surety's** plan to remedy the default.

Surety acknowledges that the Contract may contain express guarantees and agrees that said guarantees, if any, are covered by **Surety's** obligation hereunder.

Any suit under this bond must be instituted before the expiration of three years from the date on which final payment under the Contract falls due, except that, with respect to express guarantees of a longer term, a suit thereon must be initiated within six months following the expiration of said express guarantees, if any.

Right of action with respect to any express guarantees, if any, in the Contract shall accrue following completion and formal acceptance of the Work under the Contract.

No right of action shall accrue on this bond to or for the use of any persons or corporation other than **Owner** named herein or its successors or assigns.

Signed and Sealed this _____ day of _____.

ATTEST:

Contractor

By: _____

Title: _____

ATTEST:

Surety

By: _____

Title: _____

Claims or Notice given to **Surety** pursuant to this Bond shall be sent to the following Mailing Address:

LABOR AND MATERIAL PAYMENT BOND

PROJECT NAME: _____

JOB ORDER NO. _____

KNOW ALL MEN BY THESE PRESENTS:

THAT _____, as Principal, hereinafter called **Contractor**, and _____, a corporation organized and existing under and by virtue of the laws of the State of _____ and authorized to do business in the State of New Mexico, as a surety, hereinafter called **Surety**, are held and firmly bound unto the Albuquerque Bernalillo County Water Utility Authority as Obligee, hereinafter called **Owner**, in the amount of _____ Dollars (\$_____), for the payment whereof **Contractor** and **Surety** firmly bind themselves, their heirs, executors, administrators, successors, and assigns jointly and severally by these presents.

WHEREAS, **Contractor** shall by written agreement enter into a contract with **Owner** for the above-referenced Project, which Contract shall by reference be made a part hereof and is hereinafter referred to as the Contract.

NOW, THEREFORE, the condition of this obligation is such that, if **Contractor** shall pay as they become due, all just claims for labor performed and materials and supplies furnished upon or for the Work under said Contract, whether said labor be performed and materials and supplies be furnished under the original Contract or any contract thereunder, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

The right to sue on this bond accrues only to **Owner** and the parties to whom Sections 13-4-18 through 13-4-20 NMSA 1978, as amended, grant such right; and any such right shall be exercised only in accordance with the provisions and limitations of said statutes.

Signed and Sealed this _____ day of _____.

ATTEST:

Contractor

By: _____

Title: _____

ATTEST:

Surety

By: _____

Title: _____

Claims or Notice given to **Surety** pursuant to this Bond shall be sent to the following Mailing Address:

This bond is issued simultaneously with the Performance Bond in favor of Owner for the faithful performance of the Contract.

APPENDIX G

Sample Forms

(The forms included in this Appendix G, may be changed and/or modified at any time during the term of the agreement)

- Job Order Authorization Form**
- SFPA-1 Form / Subcontractor Listing**
- Supplemental Subcontractors List**
- Sample Project Sign Detail**

JOB ORDER REQUEST/ AUTHORIZATION FORM
(TO BE COMPLETED BY THE COUNTY)

OWNER: Bernalillo County *Contract No. _____

CONTRACTOR: _____ P.O. Number _____

Project Title: _____ **Job Order No. _____

Location: _____

Project Scope of Work: _____

This Job Order shall consist of the construction of all work described on the Owner approved Job Order Offer quote for the Job Order No. noted above and in accordance with the General and Technical provisions of the Contract Documents.

Job Order Substantial Completion:

Contract Time Allowed to Substantial Completion _____ Consecutive Calendar Days (after NTP)

Any time extension to the Substantial Completion Date must be approved in writing by the Owner; an email notification from the Contractor that is acknowledged and approved by the Owner is sufficient written approval.

Liquidated Damages:

The Contractor agrees to pay, as liquidated damages for this Job Order project, the amount of _____ Dollars (\$ _____) for each consecutive calendar day that the Job Order project remains incomplete after the Date of Substantial Completion. All liquidated damages are cumulative. Notice to the Contractor from the Owner will be by hand delivery or Email.

Contract Price:

The Contract Price is based upon the Job Order Offer submitted by the Contractor on _____ (date) and the following combination of items, if applicable, which are described in the above Project Scope of Work:

Compensation for Construction Services:

- Base Offer: \$ _____
- Alternative No. 1: (Additive/Deduct) \$ _____
- Allowances, if any: \$ _____
- Performance and Payment Bond: \$ _____
- Subtotal amount: \$ _____
- New Mexico Gross Receipt Tax (NMGRT) (_____ %) \$ _____

The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Price of _____ (\$ _____), excluding NMGRT, subject to additions and deductions as provided in the Contract Documents. **Total compensation including NMGRT shall not exceed _____ (\$ _____).**

*The applicable Contract Number related to the Contractors agreement with the County which is assigned by the Purchasing Section.

**Job Order Numbers are sequential, beginning with #1 and continuing in numerical order. For any substantial changes to the project (see supplemental Job Order form).

Note: Builders Risk insurance in the amount of 100% of total Job Order Contract Price is required for all Horizontal Projects. For each project \$25,000 or more, excluding NMGRT, a performance bond and a labor and materials payment bond in the amount of 100% of total Job Order Contract Price will be required of the Contractor. For each project \$60,000 or more, excluding NMGRT, updated Commercial General Liability, Auto, Owner's Protective Liability and Workers' Compensation insurance certificate, and a Wage Decision issued by the New Mexico Department of Workforce Solutions is required. Reference Wage Decision Number: _____.

Subcontractor Listing:

For all projects in an amount of \$5,000 or more (excluding NMGRT) and which the Contractor is engaging subcontractors, the Contractor is required to complete and attach to this Job Order a Subcontractor Listing Form identifying each subcontractor to be engaged in the project. For each project in an amount of \$60,000 or more, excluding NMGRT, Contractor is required to complete and submit the Wage Decision Subcontractor List to the NMDOL.

Contractor agrees to furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete the Work for the construction of the above-referenced Project and any authorized supplemental work, all in strict accordance with the Contract Documents and the terms set forth herein. The Contractor agrees and understands that failure to perform the Work to the satisfaction of the Owner may affect future selections to perform subsequent Job Orders under the RFP Agreement.

JOB ORDER – AUTHORIZATION and NOTICE TO PROCEED

RECOMMENDED: _____
(Bernalillo County Project Manager) Date

Received by and Agreed to:

CONTRACTOR: _____
Date

**AUTHORIZATION
TO CONSTRUCT/
NOTICE TO PROCEED (NTP):** _____
(Bernalillo County Department Director or Designee) Date

Work shall begin within ten (10) days of the date above.

CONTRACTOR shall not proceed with work until: A) A purchase order issued by the Bernalillo County Purchasing Section has been received by the Contractor; and B) The Contractor has received a signed Job Order Authorization/Notice to Proceed from the County's Project Manager.

- a) **Base Offer** – Subtotal of Items 1 through _____ \$ _____
- b) **Allowances (if applicable):**
 - [Permits] \$ _____
 - [Additive Alternates] \$ _____
 - [Performance & Payment Bond] \$ _____
 - Total Allowances:** \$ _____
- c) **Subtotal** – Line a) Base Offer subtotal plus Line b) Allowances: \$ _____
- d) **New Mexico Gross Receipts Tax (NMGRT)**
on amount on Line c) Subtotal, at _____%: \$ _____
- e) **BASE OFFER TOTAL** – Line c) Subtotal plus Line d) NMGRT: \$ _____

_____ Dollars

All BASE OFFER TOTAL amounts of the Job Offer shall be shown in both words and figures. In case of discrepancies, the amount shown in words will govern.

A mutually accepted payment schedule based on completion of work by percentage may be approved on a project-by-project basis.

The Contractor agrees that this Job Order offer may not be withdrawn for a period of fifty-five (55) calendar days after being submitted to the County for consideration.

Contractor Company Name

NM Contractor's License Number

Signature

License Classification(s)

Printed Name

NM Department of Workforce
Solutions Registration Number

Title

Date

Address:

Telephone Number

E-Mail Address

Subcontractor Listing Form

PROJECT NAME: _____ **CONTRACT NO.** _____

Some Public Works Projects are subject to the provisions of the Subcontractors Fair Practices Act, Sections 13-4-31 et seq., NMSA 1978. The listing threshold is \$5000 or 1/2 of 1% of the estimated Project cost not including alternates, whichever is greater. Any Contractor submitting an offer shall set forth: **1) the name and the city or county of the place of business of each subcontractor under subcontract to the Contractor who will perform work or labor or render service to the contractor in or about the construction of the Public Works Construction Project in an amount in excess of the listing threshold; and 2) the category of the work that will be done by each subcontractor. No more than one subcontractor shall be listed for each such category, provided, however,** that such listing shall not include subcontractors whose work does not exceed the threshold dollar amount. Owner must be notified of and approve of any changes of proposed subcontractor(s) which may occur during the life of the project. The Contractor shall be fully responsible for the work of the subcontractor(s) to the full extent of the requirements of the contract. If a Contractor fails to list a subcontractor in excess of the listing threshold and he does not state that no bid was received or that only one bid was received, he represents that he is fully qualified to perform that portion of the work himself and that he shall perform that portion of the work himself. If after the award of the Job Order the Contractor subcontracts any portion of the work, except as provided in the Subcontractors Fair Practices Act, the Contractor shall be guilty of violation of the Subcontractors Fair Practices Act and subject to the penalties provided in Section 13-4-41 NMSA 1978.

Failure to comply with these requirements will make the Job Order Offer non-responsive and the Job Order Offer will be rejected.

If my offer is accepted, the following subcontractor(s) may perform work under this Job Order. [Use additional sheets if necessary.] (If you do not plan to utilize subcontractors, write "None".)

	NAME OF SUBCONTRACTOR	CITY OR COUNTY OF PLACE OF BUSINESS	CATEGORY OF WORK
1			
2			
3			
4			
5			
6			
7			
8			
9			

Company Name of Contractor

Printed Name

Signature

Date

SAMPLE SIGN FORMAT



COUNTYWIDE PROJECTS

County Commissioners

Maggie Hart Stebbins
District 3
Debbie O'Malley
District 1
Art De La Cruz
District 2
Lonnie C. Talbert,
District 4
Wayne Johnson
District 5

Project Cost:

Engineer:

Contractor:

Project Office:

After Hours Emergency Phone:

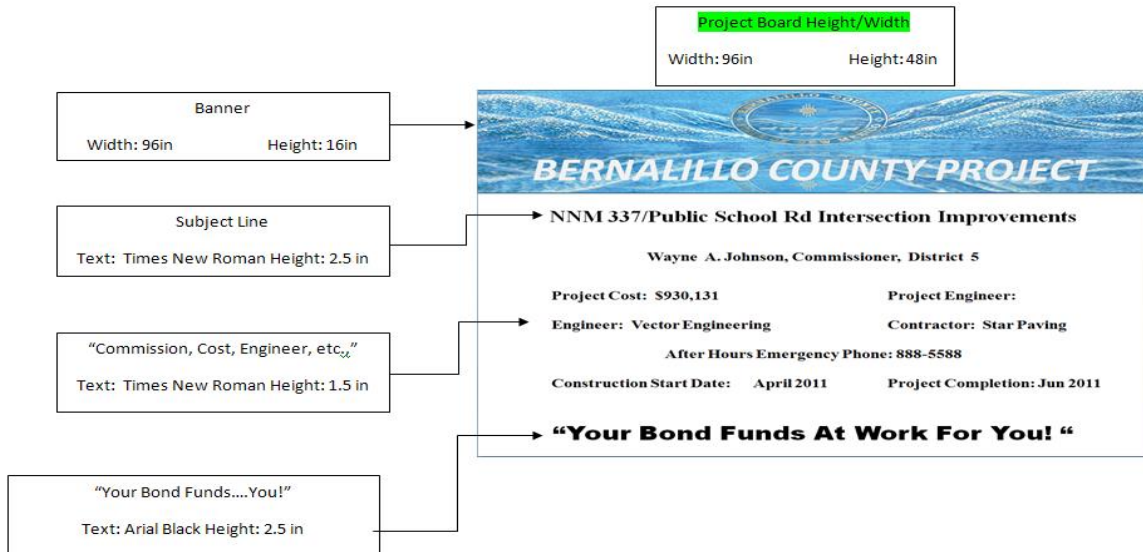
Construction Start Date:

Project Completion:

“Your Bond Funds At Work For You! “

Sign Size, Letter Fonts, and Letter Sizing:

Bernalillo County Project Board Specs 2011



**APPENDIX H
CHECKLIST**

To be submitted with proposal submittal:

FILE #1

- Submittal Letter Form**
- Completed Statement of Qualifications (Pages 36 to 55)**
- Campaign Contribution Disclosure Form (Appendix D)**
- Agreement, Insurance and Bonding Certification Form (Page 68)**
- Surety Prequalification Reference Letter (Page 69)**
- Subcontractors Fair Practice Act Form, SFPA-1 (Page 78)**
- Subcontractors Supplemental Form (Page 79)**

FILE #2

- Cost Proposal (Page 60)**
- Resident Business Preference Certificate (if applicable)**
- Resident Veteran Business Preference Certificate (if applicable)**
- Pay Equity**
- Unfair Business Practices Disclosure Form**

To be submitted with signed Agreement:

- Insurance Certificate** (Commercial General Liability including Auto, Owner's Protective Public Liability Insurance, and Workers' Compensation)

To be submitted with each individual Job Order Authorization Form:

- Job Order Offer Form**
- SFPA-1 Form / Subcontractor Listing**
- Insurance Certificate** (in the amount of 100% of total Job Order Contract Price)
- Supplemental Subcontractor List (if Job Order exceeds \$60,000).**

In addition, submit with each individual Job Order Authorization Form project over \$25,000, excluding NMGRT:

- Labor and Materials Payment Bond** (in the amount of 100% of total Job Order Contract Price)

In addition, submit with each individual Job Order Authorization Form project over \$60,000, excluding NMGRT:

- Insurance Certificate** (Commercial General Liability including Auto, and Workers' Compensation)
- Wage Decision issued by the New Mexico Department of Workforce Solutions** (Owner will obtain and provide to Contractor for submittal to NM Dept. of Workforce Solution).

APPENDIX A RANKINGS

Rankings for the evaluation of written proposals are weighted 45% and rankings from the interviews are weighted 55% in determining the final selection. The combined weighted rankings of written proposals and the interview determine the final rankings. The firm with the highest ranking (lowest numerical total) shall be awarded the selection. A sample of the selection ranking determination is given below.

<u>Proposal Submittal (45%)</u>		<u>Interview (55%)</u>	<u>Final Ranking</u>
Firm A 1 st	3 rd	$(1 \times .45) + (3 \times .55) = 2.1$	3
Firm B 3 rd	1 st	$(3 \times .45) + (1 \times .55) = 1.9^*$	1
Firm C 2 nd	2 nd	$(2 \times .45) + (2 \times .55) = 2.0$	2

*Highest ranking (lowest numeric total) is awarded the selection.

All overall committee rankings, including written proposals, interview, and final rankings are public record and will be available for public inspection after final award of the project. Individual scores and rankings by each committee member shall be confidential. Ties in ranking by individual committee members and by collective committee rankings shall be scored using the sum of the ranking places, divided by the number of firms in a tie. The following is an example of scoring, for a tie at first.

<u>Scoring</u>	<u>Numerical Ranking</u>
Firm A Tie	$(1^{\text{st}} + 2^{\text{nd}}/2) = 1.5$
Firm B Tie	$(1^{\text{st}} + 2^{\text{nd}}/2) = 1.5$
Firm C 3 rd	= 3

A tie for first, at the end of the final rankings shall be broken by a separate ranking by the Selection Committee members, only ranking the firms involved in the tie. If a tie still exists after ranking only the tied firms, the Chair of the Selection Committee shall break the tie.

Point Calculations

All calculations of point standings, including any addition or deduction of points to Offeror submittals shall occur at a meeting of the Selection Committee, with all members in attendance.

APPENDIX B

Application of Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended) and County Ordinance 2-367 (as amended), Offerors must include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

Offerors must submit a valid preference certificate issued by the Taxation and Revenue Department with their Proposal. If the required preference certificate is submitted, the following preferences shall apply:

- State Resident Business: means a business that has a valid Resident business certificate issued by the New Mexico Taxation and Revenue Department pursuant to 13-1-22, NMSA 1978.
- State Resident Veteran Business: means a Business that has a valid Veteran Resident Business certificate issued by the New Mexico Taxation and Revenue Department pursuant to 13-1-22, NMSA 1978.

Application of Preferences (Point-Based)

- five (5) percent of the total possible points (State Resident Business)
- ten percent of the total possible points (State Resident Veteran Business)

Application of Preferences (Weight-Based)

- five (5) percent of the total weight (State Resident Business)
- ten percent of the total weight (State Veteran Resident Business)

Offerors are not eligible to receive both a Resident Contractor preference and a Resident Veteran Contractor preference.

County Preferences shall be applied as follows:

- Local Business means a business that holds a valid Resident Business/Contractor certificate from the New Mexico Taxation and Revenue Department pursuant to 13-1-22, NMSA 1978 and maintains an office and place of business in Bernalillo County, which is staffed and open to the public on a regular basis, subject to verification by the County.
 - five percent shall be applied to a qualified proposal.
- Small Business shall mean a Local Business which employs an average of fewer than fifty (50) full-time employees in a calendar year, which number shall be verified by **submittal of an affidavit from a Certified Public Accountant**.
 - five percent shall be applied to a qualified proposal.
- Pay Equity Business means any business that maintains a zero percent (0%) deviation of between the salaries paid to men and salaries paid to women for comparable positions, as reported in the Pay Equity Reporting form that has been submitted by each Offeror. For purposes of this definition, comparable positions are those listed in the Job Classification Guide 2010 (as may be updated and amended from time to time) published by the federal Equal Employment Opportunity Commission.

The City of Albuquerque ("COA"), Bernalillo County, and the Albuquerque Bernalillo County

Water Utility Authority have created a collaborative Gender Pay Equity Initiative.

To be eligible for the Pay Equity preference, the Offeror must, at the time of RFP submittal, hold a valid Pay Equity Business Certificate ("Certificate) issued by the City of Albuquerque.

The Certificate will be issued upon completion of a signed Pay Equity Reporting form, which must be submitted with the proposal. See Section II.D.4 for additional information.

- five percent shall be applied to a qualified proposal that at the time of submittal holds a valid Pay Equity Business Certificate issued by the COA on behalf of the County.

If necessary, the Central Purchasing Office may seek additional information or proof to verify a local business eligibility for a local preference.

Only the Offeror submitting proposal and not a subcontractor may qualify for a preference.

Limitation (percentage): The total amount of all preferences applied including the applicable State preference, for the purchase of Tangible Personal Property, Services or Construction in any single award shall not exceed 15%, with the limit on State preferences as set forth under the New Mexico State Procurement Code.

County Preference Limitation (dollar amount): When applying the County preferences, the total dollar amount of County preferences shall never exceed \$150,000.00.

Protests: The procedures provided in the Ordinance governing protests and judicial review apply to a protest concerning the awarding of a Contract in violation of eligibility and application of the preference.

Application of preferences shall not apply when the expenditure includes federal funds for the specific purchase is involved, or when the expenditure of grant funds includes a condition of which prohibits a local preference.

APPENDIX E

UNFAIR BUSINESS PRACTICES DISCLOSURE FORM

- (a) For the purposes of this Section, "Unfair Business Practices" shall mean a system or pattern of acts or practices that a relevant federal or enforcement agency has made a formal finding within the last three years to be discriminatory, deceptive, fraudulent, or abusive (or similar terms) under the New Mexico Unfair Practices Act, NMSA 1978, § 57-12-1 et seq, or an applicable federal or other state consumer protection law relating to the subject matter of the procurement) or that has violated a relevant criminal statute, as evidenced by a public enforcement order or judgment, settlement with the enforcement agency or other formal finding by the relevant enforcement agency with regulatory enforcement authority under the applicable consumer protection law, or criminal conviction.
- (b) Bernalillo County ("County") finds that it is a priority to protect its interests and the public's trust by conducting its business with partners that are committed to and consistently demonstrate engaging in fair and responsible business practices. The general purpose and intent of the New Mexico Unfair Practices Act is to ensure to the maximum extent practicable that contracting practices support conducting government business with partners who are committed to and consistently demonstrate engaging in fair and responsible business practices and avoid conducting its business with partners that engage in criminal or systematic deceptive, fraudulent or abusive business practices.

THE OFFEROR CERTIFIES THAT:

- It has not participated in Unfair Business Practices as defined above.
- It will report to the Central Purchasing Office any additional Unfair Business Practices or violations by it during the term of its agreement with the County.
- It agrees that any contract with the County awarded under this solicitation may be terminated as a result of its engaging in Unfair Business Practices.

Company Name of Offeror

Signature (Authorized Representative)

Telephone Number

Printed Name (Authorized Representative)

FAX Number

Printed Title (Authorized Representative)

E-Mail Address

Date

Company Address

