**SIERRA COUNTY**

**STATE OF NEW MEXICO**

**REQUEST FOR PROPOSALS (RFP)**

**CONSTRUCTION MANAGER SERVICES**

****

**RFP#2019-08-011**

**SIERRA COUNTY PROCUREMENT**

**855 VAN PATTEN**

**TRUTH OR CONSEQUENCES, NM 87901**

**Issue Date: August 30, 2019**

**Question Deadline: September 12, 2019 @ 2:00 PM**

**Due Date: September 26, 2019 @ 2:00 PM MDT**

**OTHER INFORMATION:**

**NET 30**

**COMMODITY CODE REF:** NIGP: 91430, NIGP: 95345

NIGP: 21015, NIGP: 91831, NIGP: 95826, NIGP: 91158, NIGP: 92558

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**I. INTRODUCTION**

## A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The County of Sierra (hereinafter called County), in accordance with Section 13-1-120, NMSA (2013) desires to establish on-call price agreement(s) for professional Construction Management Services*.*

**CONSTRUCTION MANAGER**

All potential Offerors are encouraged to read this Request for Proposals carefully, especially mandatory requirements. The County reserves the right to issue multiple awards in order to establish a pool of qualified firms for future projects. Each of the qualified firms will enter into a Master Agreement with the County that will allow “Task Orders for Professional Services” to be negotiated on a per project basis.

## B. SUMMARY SCOPE OF WORK

During the 2013 and 2014 monsoon seasons Sierra County was hit with catastrophic flood events that caused comprehensive infrastructure damage throughout the County. The County’s pre-existing levees were damaged and destroyed, roads were damaged and destroyed, rock and soil landslides occurred in record quantities and tonnage, homes were flooded, emergency, electrical, and telephone services disrupted, and agricultural fields silted with sediment and rock. The floods ravaged private property throughout entire geomorphic flood plains such that the visible signs of what one were existing stream beds were gone, with sediment and debris left throughout entire communities. Log jams, boulders, cobbles, sediment, and black ash remain in the stream and flood plains. The Board of county commissioners determined that there was a risk and threat to public health, welfare, safety and property and appealed to FEMA and the State of New Mexico for emergency relief funds to remedy the situation and was successful in obtaining such funds. Areas have been mitigated while others require more attention.

Sierra County now seeks to hire a CONSTRUCTION MANAGER to perform construction management and oversight for various FEMA, State and County funded improvement/repair projects. The program primarily includes repairs and construction to County roadways and levees that have been identified by FEMA as needing emergency repairs. Selection of a CONSTRUCTION MANAGER shall be based on qualifications, experience and record of performance repairing damaged infrastructure as described above. The form of agreement shall be as identified in **EXHIBIT D**. Fees for Construction Management services shall be negotiated between the selected CONSTRUCTION MANAGER and County.

Relationship of County (“Owner”) and CONSTRUCTION MANAGER - The CONSTRUCTION MANAGER (CM) accepts a relationship of trust and confidence between itself and County. The CONSTRUCTION MANAGER shall agree to furnish his/her/its’ best skill and best judgment and to cooperate with County, FEMA, any and all regulatory agencies, and any design professionals associated with applying for and attaining federal, state, county and local emergency repair funds; and the oversight and management of construction work to be performed in furthering the interests of County and the construction projects to be performed. The CONSTRUCTION MANAGER shall furnish efficient CONSTRUCTION MANAGER reviews, business administration, field supervision and shall use his/her/its’ best efforts to perform the work in the best and most expeditious, economical manner consistent with the interests of the County, and in strict conformity with FEMA funding requirements, State, Federal and local rules, laws and regulations.

**Project Team**

The CONSTRUCTION MANAGER, Sierra County, State of New Mexico, and FEMA representatives, design professionals and any other project consultants shall be called the "Project Team". The "Project Team" shall work from the beginning of each construction project through construction completion and that the CONSTRUCTION MANAGER shall provide leadership to the Project Team on all matters relating to each construction project.

County is committed to a "Partnering" approach to the successful design and construction of its projects. The County defines partnering as collaboration among professionals (County, CM, trade contractors, and design professionals) to maximize the success of each project.

## C. CHIEF PROCUREMENT OFFICER

The County of Sierra has designated a Chief Procurement Officer who is responsible for this procurement and whose name, address, and telephone number are listed below. Any inquiries or requests regarding this procurement should be submitted to the Chief Procurement Officer in writing. Offerors may contact ONLY the Chief Procurement Officer regarding the procurement. Other County employees do not have the authority to respond on behalf of the County of Sierra.

**Jocelyn Holguin**

Sierra County Chief Procurement Officer

|  |  |
| --- | --- |
| Delivery Address (Including proposal delivery):  855 Van Patten, Truth or Consequences, NM 87901 | Mailing Address:  855 Van Patten, Truth or Consequences, NM 87901 |

Phone: (575) 894-6215

Fax: (575) 894-9548

E-mail: [jholguin@sierraco.org](mailto:jholguin@sierraco.org)

**NOTE: All deliveries via express carrier (INCLUDING PROPOSAL DELIVERY) should be addressed to Jocelyn Holguin's Delivery Address, above.**

## D. DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“Board of County Commissioners” (also “BCC”) means the elected board in whom all powers of the municipality are vested and who are responsible for the proper and efficient administration of the municipal government.

"Chief Procurement Officer" (also “CPO”) means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"Close of Business" means 5:00 P.M. Mountain Standard Time (MST) or Mountain Daylight Time (MDT), whichever is in effect on the date specified.

"Contract" or “Agreement” means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful Offeror who enters into a binding contract.

"County" means the County of Sierra, State of New Mexico.

"Determination" means the written documentation of a decision of the Chief Procurement Officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

“Desirable" refers to the terms "may", "can", "should", "preferably" or "prefers" which identify a desirable or discretionary item or factor (as opposed to a “mandatory” item or factor).

"Evaluation Committee" means a body appointed by County management to perform the evaluation of Offeror proposals.

"Evaluation Committee Report" means a report prepared by the Chief Procurement Officer and the Evaluation Committee for submission to appropriate approval authorities for contract award 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 this Request for Proposal and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Mandatory" refers to the terms "must", "shall", "will", "is required" or "are required" which identify a mandatory item or factor (as opposed to a “desirable” item or factor). Failure to meet a mandatory item or factor will result in the rejection of the Offeror's proposal.

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

"Page” means one (1) side of an 8 ½ X 11 inch sheet of paper. One (1) 8 ½ X 11 inch sheet of paper printed on both sides constitutes two (2) pages. (See, however, Section III.C for the one exception to the 8 ½ X 11 inch page size limitation.)

"Procuring agency of the County" means the department or other subdivision of the County of Sierra that is requesting the procurement of services or items of tangible personal property.

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

"Purchasing” means the County of Sierra Purchasing Office or the Sierra County Chief Procurement Officer.

"Purchasing Agent" or "PA" means the Chief Procurement Officer for the County of Sierra.

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

"Responsible Offeror" means an Offeror who submits a responsive proposal and who has furnished required information and data to prove that their 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 called for in this 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. Material respects of a request for proposals include, but are not limited to, price, quality, quantity and delivery requirements.

“Statement of Compliance” and “Statement of Concurrence” mean an express, affirmative statement by the Offeror in their proposal, which they agree with or agree to the stated requirement(s). Possible examples of acceptable responses include “The [NAME HERE] Company agrees to comply with this requirement.”, “The [NAME HERE] Company concurs with this requirement.” and The [NAME HERE] Company agrees to participate as required.”

## E. PROCUREMENT LIBRARY

The Procurement Library consists of the following documents which may be accessed by their associated Internet links:

**- New Mexico Procurement Code**

<http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0>

* **Sierra county Procurement Department Website**

<http://www.sierraco.org> Located in Vendor Registry- See All Active RFPs, ITBs, RFQs

**- Sierra County Procurement Regulations**

Standardized Classification Code Statute (*Effective July 1, 2016*)

# II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and contains the general requirements governing the procurement.

## A. SEQUENCE OF EVENTS

The Chief Procurement Officer will make every effort to adhere to the following schedule:

|  |  |  |
| --- | --- | --- |
| **ACTION** | **RESPONSIBILITY** | **DATE** |
| 1. Issue RFP | Chief Procurement Officer (CPO) | 08/30/2019 |
| 2. Return of “Acknowledgment of Receipt” Form for Distribution List | Potential Offerors (PO) | 09/19/2019 |
| 3. NON-Mandatory Pre-Proposal Conference | CPO, PO and VC Staff | N/A |
| 4. Deadline to Submit Questions | PO | 09/12/2019 |
| 5. Response to Written Questions/ RFP Amendments | CPO | To Be Determined |
| 6. Submission of Proposal | Offerors | 09/26/2019at 2:00 pm MST |
| 7. Proposal Evaluation | Evaluation Committee (EC) | 09/30/2019 |
| 8. Notification of Finalists (If desired) | EC | To Be Determined |
| 9. Best & Final Offer (If requested) | Offerors | To Be Determined |
| 10. Oral Presentations (If requested) | Offerors | To Be Determined |
| 11. Contract Negotiations (If needed) | Tentative winner/County | To Be Determined |
| 12. Contract Award\* | Chief Procurement Officer /BCC\* | 10/15/2019 |
| 13. Protest Deadline | Offerors | 10/302019 |
| **Start of Performance** |  | **Anticipated- On Award** |

\*Contract award is subject to approval of the Board of County Commissioners.

## B. EXPLANATION OF EVENTS

The following paragraphs further detail the activities listed in the sequence of events shown in Section II, Paragraph A.

### 1. Issue RFP

This RFP is being issued by the County Chief Procurement Officer on behalf of Sierra County Flood Commission.

### 2. Return of “Acknowledgment of Receipt” Form for Distribution List

Potential Offerors should hand deliver or return by facsimile or e-mail or registered or certified mail the “Acknowledgement of Receipt” form that accompanies this document (See Appendix A) to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the attention of Bruce Swingle, Chief Procurement Officer, by the close of business on the date indicated in Section II.A (Sequence of Events), above.

The procurement distribution list will be used to notify those that submitted the form of any written responses to questions and any RFP amendments. Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

### 3. Site Visit and Pre-Proposal Conference-N/A

### 4. Deadline to submit written questions

Potential Offerors may submit written questions as to the intent or clarity of this RFP until 2:00 PM MST on the date indicated in Section II.A (Sequence of Events), above. All written questions must be sent by e-mail to the Chief Procurement Officer (See **EXHIBIT B**, page 47.)

### 5. Response to written questions/RFP Amendments

Written responses to written questions and any RFP amendments will be posted to the County Purchasing Office web site link: <http://www.sierraco.org-> Vendor Registry

Notification of such posting shall be provided to all potential Offerors that have returned the “Acknowledgement of Receipt” Form found at **APPENDIX A** page 35. A new “Acknowledgement of Receipt” Form will accompany the posted distribution package. The form should be signed by the Offeror's representative, dated, and hand-delivered or returned by facsimile or e-mail or by registered or certified mail by the date indicated thereon. Failure to return this form shall constitute a presumption of receipt and withdrawal from the procurement process.

### 6. Submission of Proposal

OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CHIEF PROCUREMENT OFFICER OR DESIGNEE **NO LATER THAN 2:00 PM MST ON THE DATE INDICATED** IN SECTION II.A (SEQUENCE OF EVENTS), ABOVE. **PROPOSALS RECEIVED AFTER THIS DEADLINE FOR ANY REASON WILL NOT BE ACCEPTED OR CONSIDERED.**

The date and time of receipt will be recorded on each proposal. Proposals must be addressed and delivered to the Chief Procurement Officer at the delivery address listed in Section I, Paragraph C. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the “Sierra County Construction Management Services” Request For Proposals and should reference “**RFP#2019-08-011**”. Proposals submitted by facsimile or other electronic means **WILL NOT BE ACCEPTED.**

A public log will be kept of the names of all Offerors submitting proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

### 7. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed by County management. The Chief Procurement Officer may at her option initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals; please note proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

### 8. Notification of Finalists

The Evaluation Committee may select finalists to be invited to participate in the subsequent steps of the procurement. The Evaluation Committee reserves the right not to utilize the finalist process if they deem it in the best interest of the County.

### 9. Best and Final Offers

Finalists may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers on the date indicated in Section II.A (Sequence of Events), above.

### 10. Oral Presentations

Finalists may be required to attend and participate in an oral presentation (date(s) to be determined).

### 11. Contract Negotiations

If necessary, contract negotiations shall commence with the most advantageous Offeror(s) no later than the date indicated in Section II.A (Sequence of Events), above. In the event that mutually agreeable terms cannot be reached, the County reserves the right to begin negotiations with the next most advantageous Offeror(s) without undertaking a new procurement process.

### 12. Contract Award

Any contract awarded shall be awarded to the Offeror(s) whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in this RFP. Such awards shall be subject to the prior review and approval of the County Commissioners.

### 13. Multiple Award

Sierra County reserves the right to issue multiple awards of up to three (3) Contractors for each of the Categories. The firms with the highest overall ranking in each Category from the shortlist after interviews, if applicable, will be recommended for award.

The selected firms will be submitted to the County Commission for approval of award for the applicable categories of work. The County will then enter into Master Price Agreements with each of the awarded firms for the applicable categories of work.

### 14. Protest Deadline

Any protest by an Offeror must be timely, in conformance with, and will be governed by Sections 13-1-172 through 13-1-176 NMSA 1978 and Sierra County Procurement Policy. The fifteen (15) day protest period for the submittal of a timely protest shall begin on the day following the contract award. Protests must be written and must include the name and address of the protestor and the Request for Proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Chief Procurement Officer. The protest must be delivered to the Chief Procurement Officer:

Sierra County Purchasing

Attn. Jocelyn Holguin, County Chief Procurement Officer

855 Van Patten

Truth or consequences, New Mexico 87901

NOTE: Protests received after the deadline will not be accepted.

## C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the New Mexico Procurement Code (13-1-28 NMSA 1978) and Sierra County Procurement Policy and Procedures.

### 1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal form (see **EXHIBIT A**). Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

### 2. Incurring Cost

Any cost incurred by the Offeror in preparation, transmittal, presentation of any proposal or material or negotiation associated with their response to this RFP shall be borne solely by the Offeror.

### 3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will only make contract payments to the prime contractor.

### 4. Subcontractors

Use of subcontractors must be clearly explained in the proposal and each must be identified by name. The prime contractor shall be wholly responsible for contract performance whether or not subcontractors are used. Substitution of subcontractors, after contract award, must receive prior written approval of the County Purchasing Office.

### 5. Amended Proposals

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. County personnel will not merge, collate, or assemble proposal materials.

### 6. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative addressed to the Chief Procurement Officer. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

### 7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for one hundred and twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if one is solicited.

### 8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded by the awarding authority. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material which is proprietary or confidential. The Chief Procurement Officer will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the remaining portions of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-I to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Purchasing Agent shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continued prohibition on the disclosure of confidential data.

### 9. No Obligation

This procurement in no manner obligates Sierra County or any of its departments or other subdivisions to the eventual lease, purchase, etc., of any tangible personal property offered or services proposed until a valid written contract is approved by the Purchasing Agent and other required approval authorities.

### 10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the County determines such action to be in the best interest of the County.

### 11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

### 12. Legal Review

The County requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror concerns must be promptly brought to the attention of the Chief Procurement Officer.

### 13. Governing Law

This procurement and any agreement with Offerors that may result shall be governed by the laws of the State of New Mexico.

### 14. Basis for Proposal

Only information supplied by the County in writing through the Chief Procurement Officer or in this RFP should be used as the basis for the preparation of Offeror proposals.

### 15. Contract Terms and Conditions

The contract between the County the contractor will follow the format specified by the County and contain the terms and conditions set forth in **EXHIBIT D**, Sample Contract. However, the County reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the contract.

Should an Offeror object to any of the County’s terms and conditions, as contained in this Section or in **EXHIBIT D**, that Offeror must propose specific alternative language. The County may or may not accept the alternative language, at the County’s sole discretion. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and could lead to disqualification of the Offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording in order for the proposed alternate wording to be considered.

### 16. Offeror’s Terms and Conditions

Offeror’s must submit with their proposal a complete set of any additional terms and conditions which they request are included in a contract negotiated with the County. The County may or may not accept the additional language, at the County’s sole discretion.

### 17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the County and the selected Offeror and shall not be deemed an opportunity to amend the Offeror’s proposal.

### 18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.

### 19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

### 20. Change in Contractor Representatives

The County reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the County, meeting its needs adequately.

### 21. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. The State of New Mexico criminal statutes also impose felony penalties for bribes, gratuities and kick-backs.

### 22. County Rights

The County reserves the right to accept all or a portion of an Offeror's proposal.

### 23. Right to Publish

Throughout the duration of this procurement process and contract term, potential Offeror’s and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Offeror’s proposal or termination of the contract.

### 24. Ownership of Proposals

All documents submitted in response to the RFP shall become the property of the County. However any technical or user documentation submitted with the proposals of non-selected Offerors may be returned after the expiration of the protest period, by request, at the expense of the Offeror.

### 25. Ambiguity, Inconsistency or Errors in RFP

Offerors shall promptly notify the Chief Procurement Officer, in writing, of any ambiguity, inconsistency or error which they discover upon examination of the RFP.

### 26. Competition

By submitting a proposal, Offeror certifies that they have not, either directly or indirectly, entered into any action in restraint of full competition in connection with the proposal submitted to the County.

### 27. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of any agreement resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the County of Sierra.

### 28. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

### 29. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror’s possession and the version maintained by the County, the version maintained by the County shall govern.

### 30. Background Investigations

Sierra County is committed to the safety of its employees, contractors and the community it serves. To that end, any firm awarded a contract shall be required to assure that the personnel assigned to the project do not possess criminal records that would violate the standards for employment. The successful Offeror(s) must certify that the company and its’ employees are or will be in compliance with those standards for the project awarded.

# III. RESPONSE FORMAT AND ORGANIZATION

## A. NUMBER OF RESPONSES

Offeror’s may submit only one (1) response to this RFP.

## B. NUMBER OF COPIES

Offerors shall deliver four (4) identical copies of their proposal to the location specified for the delivery and receipt of proposals on or before the closing date and time for receipt of proposals. *(Identical copies are defined as the original plus the number of additional copies needed to fulfill the requirement. For example, a requirement for four (4) identical copies would be fulfilled by submitting the original and three [3] copies of the original.)* The original copy should be clearly marked “ORIGINAL” on the front cover and shall contain original signatures

## C. PROPOSAL FORMAT

The proposal must be limited in format and length. Format will be 8-1/2 inch x 11 inch, with fold-out sheets allowed up to 11 inch x 17 inch in size. All fold-out sheets, up to a maximum of 11 inch x 17 inch sheets, will be counted as two (2) pages and shall be labeled as such. Length of the proposal shall be limited to a maximum number of pages per Category as shown below (printed sheet faces) of text and/or graphic material for project proposals. Text shall be of font size no smaller than 10 point using font type Times New Roman or equivalent. Any questions regarding format requirements shall be directed to the Procurement Manager prior to submittal of documents. The proposal shall clearly separate each Category within the proposal that the Offeror is applying for.

Material excluded from the maximum number count of pages shall include and shall be limited to:

1. Front cover (blank on back side)

2. Submittal Letter Form

3. Campaign Contribution Disclosure Form

4. Project Listing Form

5. Table of Contents (one page maximum)

6. Divider pages (blank except for title information)

7. Back cover (blank on one side)

**NOTE**: Any sheets or pages included in the proposal response, but not specifically excluded, as noted above, shall be counted towards the maximum shown above.

## D. PROPOSAL ORGANIZATION

All pages must be numbered except for those specifically excluded as noted above. All foldout pages shall be counted as two (2) pages and must be numbered as such. Proposals shall be organized in such a manner that mandatory and technical submittal requirements are clearly identified. Tabs delineating the various submittal requirements may be helpful.

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. Any forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

A proposal summary may be included by Offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

\*Offerors may attach other material that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix and will be counted towards the maximum allowance shown above.

# IV. SCOPE OF WORK/SPECIFICATIONS

## PROJECT DESCRIPTION

The purpose and intent of this Request For Proposals is to establish multiple awards for on-call, as needed, professional Construction Management Services. The County reserves the right to issue multiple awards, up to 3 contractors, for the services identified within this RFP in order to establish a pool of qualified firms for future projects.

Sierra County desires to hire a CONSTRUCTION MANAGER(s) to deliver the professional services as described below. The successful offeror(s) may be required to perform any or all of the following services.

## SCOPE OF SERVICES

**Tasks required (Construction Management Services)** may include, but are not limited to:

## A. Administration – Evaluate Damaged Infrastructure and Assist County in Applying for and Obtaining Federal, State, County and Local Funding:

The CONSTRUCTION MANAGER (CM) accepts a relationship of trust and confidence between itself and County. The CONSTRUCTION MANAGER shall agree to furnish his/her/its’ best skill and best judgment and to cooperate with County, FEMA, any and all regulatory agencies, and any design professionals associated with applying for and attaining federal, state, county and local emergency repair funds; and the oversight and management of construction work to be performed in furthering the interests of County and the construction projects to be performed. The CONSTRUCTION MANAGER shall furnish efficient Construction Management reviews, business administration, field supervision and shall use his/her/its’ best efforts to perform the work in the best and most expeditious, economical manner consistent with the interests of the County, and in strict conformity with FEMA funding requirements, State, Federal and local rules, laws and regulations.

## B. Preconstruction Phase:

The CONSTRUCTION MANAGER shall provide an overall program schedule to include the design phase by Sierra County's professional design consultant, when applicable, and construction activities. The schedule shall provide adequate detail of the design phase and construction sequences for each project as required to achieve Sierra County’s desired construction completion for each component of the program.

When requested by Sierra County, the CONSTRUCTION MANAGER shall establish a Maximum Allowable Construction Cost (MACC) for each construction project.

1. Evaluate Project Options

The CONSTRUCTION MANAGER will evaluate various project options and provide cost analyses during the Pre-Construction Phase. The evaluation shall identify advantages and/or disadvantages of each option with regard to cost, schedule, logistics, and site development.

2. Develop a Project Budget

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will develop a detailed Project Budget that identifies all costs including construction costs, consulting fees, permit fees, testing and inspection fees, equipment, inflation and contingencies.

3. Develop a Project Delivery Strategy

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will analyze project requirements and develop a pre-construction and construction strategy that addresses requirements for funding compliance, function, cost, quality, time and logistics.

4. Develop a Project Master Schedule

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will develop a Project Master Schedule that establishes duration and responsibility for all major activities during all phases of the project.

5. Monitor the Project Master Schedule

The CONSTRUCTION MANAGER will monitor and report on progress during the pre-construction phase. The CONSTRUCTION MANAGER will update the Project Master Schedule monthly, will notify Sierra County and the Project Team of any delays or problems, and will recommend any corrective action necessary to meet the schedule.

6. Perform Value Construction Management Studies

The CONSTRUCTION MANAGER will perform a minimum of two (2) Value Construction Management Studies: one (1) at the beginning of schematic design to evaluate systems, and one (1) at the completion of the design phase to evaluate details and finishes. A report will be generated for each study including recommendations on the selection of systems, details and finishes. The final selections shall be made in consultation with Sierra County and the Project Team, prior to the preparation of final construction documents.

7. Perform Cost Estimating

The CONSTRUCTION MANAGER will prepare a minimum of three (3) detailed cost estimates for all construction site development work. One (1) estimate will be provided at the completion of schematic design, one (1) at the completion of the design phase, and one (1) at the completion of construction documents. The final estimate shall conform to the final bid package configuration.

8. Perform Constructability Reviews

The CONSTRUCTION MANAGER will review design documents, as they are developed in order to avoid potential problems and to minimize potential change orders. The CONSTRUCTION MANAGER will provide recommendations on contract provisions that establish contractor performance requirements to promote quality cost effectiveness and schedule compliance.

9. Provide Monthly Reports

The CONSTRUCTION MANAGER will prepare and distribute monthly reports to Sierra County and the Project Team on the project budget, the status of the project schedule, and on general project information.

10. Conduct Design Coordination Meetings

The CONSTRUCTION MANAGER will conduct design coordination meetings on a regular basis (minimum of two per month) with Sierra County, the Project Team, and other consultants to discuss and review all items pertinent to the design phase. The CONSTRUCTION MANAGER will prepare and distribute minutes of the meetings in a timely manner.

## C. Bidding Phase

1. Develop Informal Bid Packages

The CONSTRUCTION MANAGER will develop informal bid packages to establish the categories of work into separate contracts that promote competition and provide well-defined and manageable divisions of work.

2. Develop Construction Schedule

The CONSTRUCTION MANAGER will develop a construction schedule that meets the needs of Sierra County for inclusion in the contract documents.

3. Develop Contractor and Supplier Interest

The CONSTRUCTION MANAGER will solicit quotes from each of the four contractors that have been pre-qualified by the County Sierra County to perform the required construction services for each project identified to insure a fair and competitive bidding environment. The CONSTRUCTION MANAGER will investigate each of the pre-qualified contractors to determine their ability to meet project requirements.

4. Establish Informal Bidding Procedures

The CONSTRUCTION MANAGER in conjunction with the Project Team will establish and implement procedures for the informal bidding process including the distribution of quote/bid documents, the issuance of addenda, the holding of pre-bid conferences, the receipt of quotes/bids, and the bidding schedule.

5. Distribute Quote/Bid Documents

The CONSTRUCTION MANAGER will distribute all informal bid documents to contractors and maintain accurate records of distribution activities.

6. Conduct Pre-Bid Conferences

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will schedule, organize, and conduct pre-bid conferences in a manner consistent with the bid schedule.

7. Receive and Evaluate Bids

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will receive and evaluate the bids and recommend the award of contracts.

8. Prepare Construction Contracts

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will prepare and coordinate the processing of all construction documents.

## D. Construction Phase Conduct Pre-Construction Conferences

For each project to be managed under this RFP, the successful CONSTRUCTION MANAGER(s) shall function as an independent contractor. Construction services may include, but are not limited to the following:

1. Open Book Policy

The CM will maintain total financial and transaction transparency. All financial records shall be subject to random independent third party audits.

2. The CONSTRUCTION MANAGER will hold and administer all subcontracts and shall be responsible for all project administration including but not limited to; scheduling the work, verifying and approval of all required shop drawings and submittals, ordering and ensuring timely delivery of all required materials, enforcement of all OSHA safety regulations and approval of all material invoices and subcontractor pay requests. The CONSTRUCTION MANAGER will handle all bonding for sub-contracts and materials.

3. Labor and Materials Payment Bonds

The CONSTRUCTION MANAGER shall be required to provide a Labor and Material Payment Bond and a Performance Bond, both in the form of AIA Document A311, for each project when required by New Mexico State Statutes and/or Sierra County. Each bond shall be issued in an amount equal to 100% of the cost/expense associated with each construction project. The Bonding Company (Surety) must be listed on the Federal Register, licensed to do business in the State of New Mexico, and a minimum A.M. Best rating of A11.

4. Wage Rate Determinations

The CONSTRUCTION MANAGER shall be responsible for attaining and posting all applicable Wage Rate determinations for each of the construction projects to be managed under this solicitation.

5. General and Liability Insurance

The CONSTRUCTION MANAGER shall be required to obtain proof of insurance coverage from all contractors prior to the assignment and authorization of work to be performed by each contractor.

6. Builders Risk Insurance

The CONSTRUCTION MANAGER shall be required to obtain and provide proof of Builder's Risk Insurance from each contractor for each project assigned and authorized by the CM.

7. Construction Contingency

The CONSTRUCTION MANAGER shall report to Sierra County all construction contingency allocations and shall update and submit to the County a log of contingency allocations no less than once a month.

8. Pre-Construction Meetings

The CONSTRUCTION MANAGER, in consultation with the Project Team, will organize and conduct pre-construction meetings with contractors, consultants, and Sierra County. The meetings shall include a review of project management, project schedule, and project procedures.

9. Maintain On-Site Staff

The CONSTRUCTION MANAGER will provide and maintain a qualified, on-site field staff sufficient to manage the project, conform to the scope of services, and insure that the work is performed in compliance with the contract documents.

10. Process Shop Drawings

The CONSTRUCTION MANAGER, in consultation with the Project Team, will establish and implement procedures for processing and approving shop drawings, product data, samples, and other submittals from the contractors and will coordinate the processing and approval of all submittals with the Project Team. The CONSTRUCTION MANAGER will establish and maintain a submittal log to insure contractor compliance with the contract documents.

11. Project Coordination

The CONSTRUCTION MANAGER will be responsible for managing the site and coordinating all construction activities. The CONSTRUCTION MANAGER will provide administration, management, and related services necessary to coordinate the construction activities of the contractors with each other and with those of the CONSTRUCTION MANAGER, the Project Team, and Sierra County.

12. Develop Detailed Construction Schedule

Prior to commencing construction, the CONSTRUCTION MANAGER shall be required to submit an overall project schedule to Sierra County for its’ prior review and approval. The schedule shall include start and finish dates for procurement and construction activities and major milestones for each segment of the work and shall provide adequate detail to establish an acceptable and realistic construction sequence to achieve the required completion for each project. The schedule shall be updated and submitted to Sierra County, Sierra County, no less than once a month upon construction commencement.

13. Monitor Construction Progress

The CONSTRUCTION MANAGER will review contractor’s construction schedules, observe construction progress, and report deviations from the schedule that might delay project completion. The CONSTRUCTION MANAGER will consult with contractors to develop and implement corrective actions necessary to meet the project schedule.

14. Control Construction Quality

The CONSTRUCTION MANAGER will monitor and inspect all work in progress to insure the quality of the work and compliance with the contract documents. The CONSTRUCTION MANAGER will document and report all deficiencies and make recommendations for corrective actions.

15. Maintains Construction Records

The CONSTRUCTION MANAGER will maintain current and orderly records of all construction documents including contracts, drawings, specifications, submittals, samples, schedules, correspondence, meeting minutes, catalog data, directives, change orders, etc.

16. Process Applications for Payment

The CONSTRUCTION MANAGER, in accordance with the Project Team, will develop and implement a procedure for the review and processing of contractor payment applications. The CONSTRUCTION MANAGER will evaluate the contractor’s schedule of values to insure accurate and appropriate payments in contractors.

17. Maintain Construction Accounting System

The CONSTRUCTION MANAGER will establish and maintain an accurate and up-to-date construction cost accounting system.

18. Conduct Project Meetings

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will conduct bi-monthly meetings at the job site to discuss job progress, resolve problems, and make decisions. The CONSTRUCTION MANAGER will prepare and distribute accurate meeting minutes in a timely manner.

19. Conduct Construction Superintendent Meetings

The CONSTRUCTION MANAGER will conduct bi-monthly meetings at the job site with the construction superintendents to coordinate construction activities and discuss project progress. The CONSTRUCTION MANAGER will prepare and distribute accurate meeting minutes in a timely manner.

20. Prepare and Maintain Field Reports

The CONSTRUCTION MANAGER will prepare and maintain daily job site reports including weather conditions, number of workers, and equipment in use, contractor activities, general activities, and special occurrences.

21. Process Change Orders

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will develop and implement a system for review and processing of change orders. The CONSTRUCTION MANAGER will estimate the cost of all change orders, insure the validity of change orders, and negotiate the cost of change orders with the contractors on behalf of Sierra County.

22. Coordinate Inspections and Testing

The CONSTRUCTION MANAGER will determine the requirements and make recommendations for inspections and testing. The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will coordinate the selection of independent inspection and testing agencies, review inspection and testing reports, and make recommendations regarding the results of inspections and testing activities.

23. Recommend Construction Changes

The CONSTRUCTION MANAGER will evaluate work in progress and make recommendations for changes in the work on the basis of field conditions, improved quality, cost savings, or time savings.

24. Maintain Photographic Records

The CONSTRUCTION MANAGER will coordinate and maintain photographic and/or videotape records of construction activities and project progress on a regular basis.

25. Provide Monthly Reports

The CONSTRUCTION MANAGER will prepare and distribute a monthly report to Sierra County and the Project Team including information on schedule, budget, quality, safety, logistics, and general project information.

26. Monitor Contractors’ Safety Programs

The CONSTRUCTION MANAGER will review and monitor the safety program developed by each contractor, record any safety violations, and make recommendations for improving safety conditions.

## E. Close-Out Phase

1. Develop Close-Out Program

The CONSTRUCTION MANAGER, in consultation with Sierra County and the Project Team, will develop a detailed program of close-out activities in compliance with the contract documents. The program will include a close-out schedule, inspections, testing, start-up procedures, warranty processing, and occupancy.

2. Coordinate Inspection and Testing

The CONSTRUCTION MANAGER will schedule and coordinate any and all required testing and inspections.

3. Process Warranties

The CONSTRUCTION MANAGER will collect, log, review, and submit to Owner all warranty documentation.

4. Coordinate Substantial and Final Inspections

The CONSTRUCTION MANAGER, in consultation with the Project Team, will schedule and coordinate substantial completion and final inspections. The CONSTRUCTION MANAGER will assist the Project Team in the preparation of a list of deficiencies (punch list) and will coordinate all correction action by contractors.

5. Coordinate Construction Close-Out

The CONSTRUCTION MANAGER will coordinate close-out activities including the completion of deficiencies, submittal of close-out documents, resolution of change orders, and recommendations for payment of retainage.

6. Submit Project Documentation

The CONSTRUCTION MANAGER will submit all project documentation including files, records, drawings, submittals, samples, and other information to Sierra County in an organized and usable form.

7. Coordinate Warranty Work

The CONSTRUCTION MANAGER will coordinate the warranty work by contractors to insure that their obligations are fulfilled in a timely manner.

8. Certificates

The CONSTRUCTION MANAGER, upon completion of the project, will be responsible for certifying that, to the best of his professional knowledge, the building conforms to the approved plans, specifications, and shop drawings.

# V. SUBMITTAL REQUIREMENTS/EVALUATION

## A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point value assigned to each or a Pass/Fail evaluation. These, along with the requirements of this RFP, will be used in the evaluation of individual proposal submittals.

|  |  |  |
| --- | --- | --- |
| **REF.** | **MANDATORY REQUIREMENTS** | **POINTS**  **AVAIL.** |
|  |  |  |
| V.E.1 | Letter of Transmittal Form | 0\* |
| V.E.2 | Standards Compliance | 0\* |
|  | A. State of NM Licensed and Board Certified Civil CONSTRUCTION MANAGER | 0\* |
|  | B. Minimum of five (5) years of Construction Management Experience | 0\* |
|  | C. Capability and Agreement To Perform | 0\* |
|  | D. Insurance | 0\* |
|  | E. Campaign Contribution Disclosure Form | 0\* |
|  | F. Property Tax Obligations | 0\* |
|  | G. Federal Flow-Down Certification Requirements | 0\* |
| V.E.3 | Specialized Design and Technical Competence of the business, including a joint venture or association, regarding the type of services required | 30 |
| V.E.4 | Capacity and Capability of the business, including any consultants, their representatives, qualifications and locations, to perform the work, including any specialized services, within the time limitations | 30 |
| V.E.5 | Past Record of Performance with government agencies or private industry with respect to such factors as control of costs, quality of work and ability to meet schedules | 20 |
| V.E.6 | Familiarity with Sierra County and proximity to and/or familiarity with the area in which the potential projects under this contract will be located | 15 |
| V.E.7 | Amount of Work to be Done in New Mexico by a New Mexico business within this state | 5 |
| V.E.8 | Volume of Work previously done for the entity requesting proposals which is not seventy-five percent (75%) complete with respect to basic professional design services | 5 |
| V.E.9 | Price Proposal | 15 |
| **TOTAL** |  | 120 |

\*Pass/Fail only.

## B. EVALUATION PROCESS

1. Initial Review: All Offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive to any mandatory requirement will be eliminated from further consideration.

2. Clarifications: The Chief Procurement Officer may contact the Offeror for clarification of the response as specified in Section II, Paragraph B.7.

3. Other Information Sources: The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph C.18.

4. Scoring and Contract Award Recommendation: Responsive proposals will be evaluated and assigned a point value based on the factors in Section V. Finalist who are asked and choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly.

## C. SELECTION PROCESS

On the basis of the evaluation criteria established in this RFP, the Selection Advisory Committee shall submit to the Purchasing Department a list of qualified Offerors in the order in which they are ranked. Proposal documentation requirements set forth in this RFP are designed to provide guidance to the Offeror concerning the type of documentation that will be used by the Selection Advisory Committee. Offerors should be prepared to respond to requests by the Purchasing Department on behalf of the Selection Advisory Committee for clarification, oral presentations, demonstrations or other areas deemed necessary to assist in the detailed evaluation process. Offerors are advised that the County, at its option, may award this request on the basis of the evaluation of the initial offers without conducting interviews.

## D. MANDATORY REQUIREMENTS

Each mandatory requirement in sections V.E.1 and V.E.2, below, requires a vendor response, as indicated. *Failure to respond to, or properly comply with, a mandatory requirement may result in the disqualification of the Offeror’s proposal.* Note: failure to respond to a mandatory requirement will result in receiving a score of zero (0) for that requirement.

## E. EVALUATION CRITERIA

A maximum total of 120 points are possible. A brief explanation of each evaluation criteria and the corresponding point values for each is listed below. Proposals should reflect the firm’s abilities to accomplish Construction Management work to include transportation, roadways, water and sanitary sewer projects, drainage infrastructure, hydrology/hydraulic modeling, traffic analysis and signalization. Information in one criterion may overlap information in other criteria. Offerors are encouraged to fully address each criteria completely, as points are assigned for responses to each separately. The evaluation criteria to be used for the purposes of ranking by the Selection Advisory Committee for the proposal and the corresponding point values for each criteria are as follows:

Points will be awarded based on the evaluation factors found in V.E.3 through V.E.9, below, as indicated.

### **1. Letter of Transmittal *0 POINTS – PASS/FAIL ONLY***

Proposals must be include APPENDIX B signed and dated by an individual authorized to contractually bind the firm. The letter shall contain the following information:

A. Identifies the submitting business, including name and address of organization, firm, or Department and nature of organization (individual, partnership or corporation, private or public, profit or non-profit);

B. Identifies the name and title of the person(s) authorized by the company to contractually obligate the business for the purpose of this RFP;

C. Identifies the names, titles, and telephone numbers of persons to be contacted for clarification questions regarding this RFP and person(s) to be contacted for negotiations;

D. Acknowledges receipt of any and all Addendums to this RFP;

E. Identifies the Categories of Work that are being proposed;

F. Statement of Concurrence – Pay Equity Reporting. Offeror’s must provide a yes response to the Statement of Concurrence included in APPENDIX A or provide its initials indicating Pay Equity Reporting Requirements is not applicable (see Section II.D.24.A for further details).

G. By signing the form, the Offeror is explicitly indicating the following:

1. Acceptance of Conditions Governing the Procurement as stated in Section II of this RFP.

2. A concurrence to comply with the Pay Equity Reporting Requirements as stated in Section II of this RFP.

3. A commitment to comply and act in accordance with the following Federal Executive Orders relating to the enforcement of civil rights; New Mexico State Statutes and County of Sierra Ordinances regarding enforcement of civil rights; Federal Code, 5 USCA 7201 et. seq., Anti-discrimination in Employment; Executive Order No. 11246, Equal Opportunity in Federal Employment; Title 6, Civil Rights Act of 1964; Requirements of the Americans with Disabilities Act of 1990 for work performed as a result of this RFP.

4. A commitment to comply with Section 74-9-19, NMSA 1978, of the New Mexico Solid Waste Act. Recycled materials will be investigated and incorporated where applicable into the design construction documents, and specifications will encourage the use of recycled materials in construction.

5. Signature on the form must be from a person authorized to contractually obligate the Offeror.

H. By signing Appendix D, Federal Flow-Down Certification Requirement is explicitly indicating the following:

1. Acceptance of the Federal Flow-Down Certification Requirements.

### **2. Standards Compliance *0 POINTS – PASS/FAIL ONLY***

Note, a statement of concurrence is required for the following:

1. Must be a State of New Mexico licensed and board certified Civil CONSTRUCTION MANAGER.
2. Must have a minimum of five (5) years of Construction Management experience.
3. Capability and Agreement to Perform. Offeror must certify that they are capable and qualified to provide the products or services required by this RFP and agree to perform the Scope of Work as specified within this RFP.
4. Insurance. Offeror must agree to provide proof of insurance as follows:

* Comprehensive General Liability - $2,000,000 per occurrence, $2,000,000 General Aggregate
* Errors and Omissions Insurance covering Professional Staff- $2,000,000 per occurrence, $2,000,000 General Aggregate. "Occurrence" type, if available; if not "Claims Made" type with a minimum of a six (6) year “tail”;

1. Campaign Contribution Disclosure Form. In accordance with §13-1-191.1, NMSA pertaining to the disclosure of campaign contributions made to an applicable public official of a local public body, Offeror must complete and sign the Appendix D, Campaign Contribution Disclosure Form. This form must be submitted with your proposal whether an applicable contribution has been made or not. Note that there are two (2) different signature sections within the form. (For purposes of this requirement, the applicable elected public officials within the County of Sierra are; Commissioners JAMES E. PAXON, TRAVIS DAY, and FRANCES LUNA

NOTE: THIS FORM SHALL BE SUBMITTED IN ITS ORIGINAL FORMAT AND SHALL NOT BE MODIFIED OR CHANGED IN ANY WAY.

1. Property Tax Obligations. Offerors are required to certify that they are not delinquent in the payment of their property tax obligations and that they will not become delinquent in the payment of their property tax obligations during the term of any contract that may be awarded pursuant to this solicitation. Failure to maintain compliance, or to timely cure defects, may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant contractor. Bids/Proposals that fail to comply with the certification requirements will be considered non-responsive and excluded from further consideration.
2. By signing Appendix E, Federal Flow-Down Certification Requirement is explicitly indicating the following:

1. Acceptance of the Federal Flow-Down Certification Requirements.

### **3. Specialized Design and Technical Competence of the business, including a joint venture or association, regarding the type of services required: *30 POINTS***

Key personnel qualifications and experience – Describe the qualifications and experience of the key personnel that may be assigned to potential future work such that those qualifications demonstrate prior experience on work of a similar nature. Include the qualifications and experience of the NM Registered Professional CONSTRUCTION MANAGER, or licensed professional for non-Construction Management work, who will be in direct responsible care of the work. Include names of all Sub-contractors expected to be used on potential future projects. Prior experience with Sierra County, the Sierra County Public Works Division and/or New Mexico Department of Transportation projects shall be noted for each of the individuals or sub-contractors. List applicable experience of the firm. Include the date the firm was established doing business under its current name.

### **4. Capacity and Capability of the business, including any consultants, their representatives, qualifications and locations, to perform the work, including any specialized services, within the time limitations: 3*0 POINTS***

Technical Approach – Provide a description of the Offeror’s approach to accomplish potential future projects. This description should be in such detail as necessary to demonstrate the firm’s capabilities. An analysis demonstrating the Offeror’s effort to create cost savings, cost deferrals, and/or lower life cycle costs for future projects is encouraged.

Current Workload – Include a personnel loading capacity chart depicting the capacity of the firm vs. calendar months for 12 months for the firm’s projects currently under contract that exceed an average monthly billing of $5,000.

Provide the amount of design work that will be produced by a New Mexico business within the state. Provide the proximity to or familiarity with the area in which the project is located.

### **5. Past Record of Performance with government agencies or private industry with respect to such factors as control of costs, quality of work and ability to meet schedules: *20 POINTS***

Past Performance – Discuss past performance by the firm on Sierra County projects or related work for other agencies/clients of a similar nature. Emphasis on the quality of work, constructability, ability to keep and meet schedules, ability to stay within budget and percent of change orders is desirable.

References – Provide references and/or recommendations by other governmental agencies or clients on work of a directly related nature.

### **6. Familiarity with Sierra County and proximity to and/or familiarity with the area in which the potential projects under this contract will be located: 15 *POINTS***

Describe your firm’s proximity to and/or familiarity with Sierra County.

Describe any important location and or site issues that could impact Sierra County projects; positively or negatively. Describe how your firm typically involves user groups, senior management, community members, etc. in project planning, design and construction.

### **7. Amount of Work to be Done in New Mexico by a New Mexico business within this state: 5 *POINTS***

Describe the amount of work that will be produced within New Mexico by New Mexico owned and operated businesses.

### **8. Volume of Work previously done: *5 POINTS***

Volume of work being done for Sierra county which is not seventy-five percent (75%) complete with respect to basic professional design services. The objective is to effect an equitable distribution of contracts among qualified businesses and of assuring that the interest of the public in having available a substantial number of qualified businesses is protected; provided, however, that the principle of selection of the most highly qualified businesses is not violated.

As of the due date of this Request For proposals, state the volume of work previously done for Sierra County which is not 75% complete with respect to basic professional design services. Points will be determined as follows:

Points will be allotted for this criteria as follows:

$ 0 to $ 35,000 1 point deducted

$ 35,000 to $ 50,000 2 points deducted

$ 50,000 to $100,000 3 points deducted

$100,000 to $150,000 4 points deducted

$150,000 and over 5 points deducted

### **9. Price Proposal: 1*5 POINTS***

A. Provide a Fee Schedule for “basic services” of hourly rates AND/OR percentage of MACC similar to that represented within the State Rate Schedule for Architects.

B. Reimbursable Expenses

The Fee Proposal should not include any reimbursable expenses. The CONSTRUCTION MANAGER will not be reimbursed for the following:

• Accounting

• Telecommunications

• Postage

• Transportation

• Parking

• Photocopying

• Office Supplies

• Miscellaneous Supplies

• Daily Per Diem and Hotel Rates

• Mileage rate

**NOTE- EXHIBIT C- COST RESPONSE FORM, PAGE 48 OF RFP PACKET:**

Only selected vendors will be asked to fill out cost response form for scoring purposes. All those not selected will receive an automatic (**0 Points**) in the evaluation process.

# 

# APPENDIX A

## ACKNOWLEDGEMENT OF RECEIPT FORM

###### Request for Proposals

###### Sierra County RFP #2019-08-011

**CONSTRUCTION MANAGER SERVICES**

In acknowledgment of receipt of this Request for Proposal, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with Exhibit D.

**The acknowledgment of receipt should be signed and returned (by fax, e-mail, and courier or hand delivery) to the Chief Procurement Officer no later than September 19, 2019.**

The firm listed below does/does not (circle one) intend to respond to this Request for Proposals.

FIRM: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ TITLE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

PHONE NO.:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ FAX NO.:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CITY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ STATE: \_\_\_\_\_\_ ZIP CODE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SIGNATURE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This name and address will be used for all correspondence related to the Request for Proposals.

Please return to:

**Jocelyn Holguin**

Chief Procurement Officer

855 Van Patten

Truth or Consequences, NM 87901

Phone: (575) 894-6215

Fax: (575) 894-9548

E-mail: [jholguin@sierraco.org](mailto:jholguin@sierraco.org)

**APPENDIX B**

**ACKNOWLEDGMENT OF ADDENDA**

**THE FOLLOWING BIDDER INFORMATION MUST BE COMPLETED AND RETURNED WITH THE RFP #2019-08-011.**

**ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda:

Addenda No. Dated Addenda No. Dated

Addenda No. Dated Addenda No. Dated

The undersigned, as an authorized representative for the Company named below, acknowledges that the Bidder has examined this RFP with its related documents and is familiar with all of the conditions surrounding the described materials, labor and/or services. Bidder hereby agrees to furnish all labor, materials and supplies necessary to comply with the specifications in accordance with the Terms and Conditions set forth in this RFP and at the prices stated within the RFP.

The undersigned further states that the company submitting this RFP is not in violation of any applicable Conflict of Interest laws or regulations or any other related clauses included in this RFP.

**COMPANY NAME**

**ADDRESS**

**CITY/STATE/ZIP**

**TELEPHONE: FAX: EMAIL**:

**NEW MEXICO GROSS RECEIPTS TAX NO**

**FEDERAL EMPLOYER ID NUMBER (FEIN)**

***NEW MEXICO LOCAL PREFERENCE NUMBER*:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SIGNATURE OF AUTHORIZED REPRESENTATIVE**

**PRINTED OR TYPED NAME**

**TITLE**

**DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**APPENDIX c (MANDATORY)**

**SIERRA COUNTY Conflict of Interest-Debarment/Suspension Certification Form**

**THE FOLLOWING MUST BE CERTIFIED IF ANY RESULTANT PURCHASE ORDER/AGREEMENT IS $20,000 OR GREATER**

Conflict of Interest; Governmental Conduct Act.

A. The CONSTRUCTION MANAGER represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The CONSTRUCTION MANAGER further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the CONSTRUCTION MANAGER specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the CONSTRUCTION MANAGER does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County’s contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the CONSTRUCTION MANAGER is not a public officer or employee of the County; (ii) the CONSTRUCTION MANAGER is not a member of the family of a public officer or employee of the County; (iii) the CONSTRUCTION MANAGER is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the CONSTRUCTION MANAGER is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the CONSTRUCTION MANAGER is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the CONSTRUCTION MANAGER is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the CONSTRUCTION MANAGER has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the CONSTRUCTION MANAGER has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.

C. CONSTRUCTION MANAGER’s representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. CONSTRUCTION MANAGER shall provide immediate written notice to the County if, at any time during the term of this Agreement, CONSTRUCTION MANAGER learns that CONSTRUCTION MANAGER’s representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that CONSTRUCTION MANAGER’s representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 13(B).

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice or proposed debarment from any Agency. The vendor agrees to provide immediate notice to the County Chief Procurement Officer in the event of being suspended, debarred or declared ineligible by any department or federal agency, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or Bid but prior to the award of the /Purchase Order/Agreement or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named **and that the information contained in this document is true and accurate to the best of their knowledge**.

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name Typed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ City/State/zip:

**APPENDIX D (MANDATORY)**

**CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective CONSTRUCTION MANAGER seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective CONSTRUCTION MANAGER must disclose whether they, a family member or a representative of the prospective CONSTRUCTION MANAGER has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the CONSTRUCTION MANAGER submits an bid or, in the case of a sole source or small purchase contract, the two years prior to the date the CONSTRUCTION MANAGER signs the contract, if the aggregate total of contributions given by the prospective CONSTRUCTION MANAGER, a family member or a representative of the prospective CONSTRUCTION MANAGER to the public official exceeds two hundred and fifty dollars ($250) over the two year period.

Furthermore, the state agency or local public body may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective CONSTRUCTION MANAGER, a family member of the prospective CONSTRUCTION MANAGER, or a representative of the prospective CONSTRUCTION MANAGER gives a campaign contribution or other thing of value to an applicable public official or the applicable public official’s employees during the pendency of the procurement process or 2) a prospective CONSTRUCTION MANAGER fails to submit a fully completed disclosure statement pursuant to the law.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective CONSTRUCTION MANAGER.

THIS FORM MUST BE INCLUDED IN THE INVITATION TO BID AND MUST BE FILED BY ANY PROSPECTIVE CONSTRUCTION MANAGER WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“**Applicable public official**” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective CONSTRUCTION MANAGER is submitting a competitive sealed bid or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive bid.

“**Campaign Contribution**” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“**Family member**” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective CONSTRUCTION MANAGER, if the prospective CONSTRUCTION MANAGER is a natural person; or (b) an owner of a prospective CONSTRUCTION MANAGER.

“**Pendency of the procurement proces**s” means the time period commencing with the public notice of the Invitation To Bid and ending with the award of the contract or the cancellation of the Invitation To Bid.

“**Prospective CONSTRUCTION MANAGER**” means a person or business that is subject to the competitive sealed RFP process set forth in the Procurement Code or is not required to submit a competitive sealed bid because that person or business qualifies for a sole source or a small purchase contract.

“**Representative of a prospective CONSTRUCTION MANAGER**” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective CONSTRUCTION MANAGER.

Name(s) of Applicable Public Official(s***): James Paxon, Travis Day and Frances Luna***

(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONSTRUCTION MANAGER:

Contribution Made By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Relation to Prospective CONSTRUCTION MANAGER: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Attach extra pages if necessary)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title (position)

**--OR--**

**NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS ($250) WERE MADE** to an applicable public official by me, a family member or representative.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature Date

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title (Position)

**APPENDIX E**

# RESIDENT VETERANS PREFERENCE CERTIFICATION

(NAME OF CONSTRUCTION MANAGER) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

##### PLEASE CHECK ONLY ONE BOX FROM THE (2) CHECK BOXES LISTED BELOW:

\_\_\_ I declare that my organization is **ineligible** to receive New Mexico Resident Veterans Preference.

\_\_\_ I declare that my organization is **eligible** to receive New Mexico Resident Veterans Preference

**Please Indicate**: Veteran Preference\_\_\_\_\_\_\_\_\_ 10% under $3 Million.

Resident Preference: \_\_\_\_\_\_\_\_\_\_5%

AN ACT

RELATING TO PROCUREMENT; AMENDING THE RESIDENT VETERAN BUSINESS PREFERENCE; REPEALING LAWS 2012, CHAPTER 56, SECTION 2 AND LAWS 2012, CHAPTER 56, SECTION 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO: SECTION 1. Section 13-1-21 NMSA 1978 (being Laws 1979, Chapter 72, Section 1, as amended) is amended to read: "13-1-21. APPLICATION OF PREFERENCES.--

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran CONSTRUCTION MANAGER Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

(**Signature of Business Representative**)\* (**Date**)

\*Must be an authorized signatory for the Business.

*The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or un-award of the procurement involved if the statements are proven to be incorrect.*

**APPENDIX F**

**LOCAL PREFERNCE**

Sierra County Preference Certificate Application

|  |  |
| --- | --- |
|  |  |
|  | 855 Van Patten, T or C, NM 87901 | (575) 894-6215 | Fax (575)9548 |

description Appendix g

|  |  |
| --- | --- |
|  |  |
|  | The phrase “Sierra County Business” shall mean a business that has its primary and permanent office or business location or primarily conducts its business within the boundaries of Sierra County for at least one (1) year preceding the submission of an application for a Sierra County procurement preference, and which, if a foreign corporation, has filed a unitary return pursuant to the Corporate Income and Franchise Tax Act and NMSA 1978, Section 7-2A-8.3 at the time of application for a preference certificate. Whereas, local businesses pay local Gross Receipt Taxes, spend their dollars locally, and reinvest in the community. All applicants will be reviewed and by the Procurement Officer. **Note: A copy of the actual certificate shall accompany proposal documents. This for is the application only.** |

Eligibility OF THE SIERRA COUNTY PROCUREMENT PREFERENCE

|  |  |
| --- | --- |
|  |  |
|  | SIERRA COUNTY BUISNESS  A Sierra County Business shall be eligible to claim the 0.99% preference established only when presenting, prior to or at the time established in the solicitation for receipt of proposals or invitations for bids, a Sierra County Preference Certificate is issued by the Procurement Manager. |
|  | Application Fee  $25.00- Non Refundable- Does Not Guarantee Acceptance.  **EXPERATION OF CERTIFICATE**  A Preference Certificate shall be valid for four (4) years from the date of its issue or once the applicant no longer meets the criteria.  **DENIAL OF CERTIFICATE; PROTEST; REVOCATION**   1. Purchasing Manager shall determine if an applicant is eligible for certification. 2. If application is denied a notice of denial shall be issued. 3. A business whose application for a Preference Certificate is denied may protest the denial to the Procurement Manager in conformity with the protest procedure of the Sierra County Purchasing Policy. 4. Through developing facts the Procurement Manager will revoke the certificate and notify the applicate, if the information provided is inaccurate or misleading information. |

obtaining A LOCAL preference certificate

|  |  |
| --- | --- |
|  |  |
|  | **DATE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **COMPANY NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **CONTACT PERSON: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **PHONE NUMBER: ( ) -**  **EMAIL ADDRESS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **Please, check appropriate answer:** |
|  | 1. \_\_\_\_\_\_YES \_\_\_\_\_\_\_NO is your business registered in the State of New Mexico and in good standing?      1. \_\_\_\_\_\_YES \_\_\_\_\_\_\_NO has your business been established within the boundaries of Sierra County for longer than (1) year? (A copy of the business Gross Receipt Tax Return for the year preceding must be attached to application. Income amounts and taxes paid may be redacted). 2. \_\_\_\_\_\_YES \_\_\_\_\_\_\_NO Do you have a valid municipal business license? (A copy must be attached to application to be considered). 3. \_\_\_\_\_\_YES \_\_\_\_\_\_\_NO Are you a foreign corporation? – If so, copies of the most recent State and Federal Tax returns applicable to the business.   Once all requirements are met and verified, a Certificate from the County of Sierra will be issued to you and business. Thank you for your submission. **Note: A valid certificate shall be issued prior to submittal of bid packet. This application is not the certificate.** **Payment, approval and certificate to be considered for preference.** |
|  |  |

# EXHIBIT A (manditory)

## LETTER OF TRANSMITTAL FORM

Items #1 to 4 **MUST** EACH BE RESPONDED TO. Failure to respond to all four items **WILL** RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

1. Identity (Name) and Mailing Address of the submitting organization:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2: For the person authorized by the organization to contractually obligate the organization:

|  |  |
| --- | --- |
| Name |  |
| Title |  |

3. For the person authorized to negotiate the contract on behalf of the organization:

|  |  |
| --- | --- |
| Name |  |
| Title |  |
| E-Mail Address |  |
| Telephone Number |  |

4. For the person to be contacted for clarifications:

|  |  |
| --- | --- |
| Name |  |
| Title |  |
| E-Mail Address |  |
| Telephone Number |  |

- On behalf of the submitting organization named in item #1, above, I accept the Conditions

Governing the Procurement as required in Section II, Paragraph C.1.

- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP #2019-08-011 CONSTRUCTION MANAGER Services.

- I acknowledge receipt of any and all amendments to this RFP.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2019

Authorized Signature and Date (**Must** be **signed** by the person identified in **item #2**, above.)

**EXHIBIT B**

**RFP Question Submittal Form**

**RFP# 2019-08-011**

All written questions must be addressed to the Buyer for this RFP. Bidders are to submit written questions using the format below, or submitted in similar format sequence. Written responses to the questions received will be distributed by Sierra County Procurement Agent as addenda to this RFP solicitation. Submit questions to [jholguin@sierraco.org](mailto:jholguin@sierraco.org)

|  |  |  |
| --- | --- | --- |
| **Question #** | **Reference** Page/Paragraph/Sec | **Question** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |
| 6 |  |  |
| 7 |  |  |
| 8 |  |  |
| 9 |  |  |
| 10 |  |  |

# EXHIBIT C

## COST RESPONSE FORM

**Note: To be used by selected CONSTRUCTION MANAGER (s) during negotiation phase- not to be turned in with RFP**

**Submittal Packet**

Sierra County RFP #2019-08-011

State gross receipts and local option taxes (if any) shall not be included in the Total Proposed Annual Cost.

OFFEROR NAME: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL BASIC MONTHLY FIXED RATE WITHOUT GRT $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WRITTEN IN WORDS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TOTAL PROPOSED COST WITHOUT GRT $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

WRITTEN IN WORDS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

OTHER COST/EXPENSES WITHOUT GRT $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(PLEASE, PROVIED EXPLINATION ON SEPARATE DOCUMENTS AND REFERENCE)

WRITTEN IN WORDS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NOTE: OTHER COST TO BE BASED ON TASK ORDER PER PROJECT AND PERCENTAGE OF WORK.**

SIGNATURE OF AUTHORIZED VENDOR:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME AND TITLE DAT

**EXHIBIT D**

**CONTRACT #\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SIERRA COUNTY**

**MASTER PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into by and between the County of Sierra, hereinafter referred to as the "County" and CONTRACTOR, Inc., hereinafter referred to as the "Construction Manager”, and is effective as of the date set forth below upon which it is executed by the Board of County Commissioners.

WHEREAS, the County issued a Request for Proposals (RFP) to provide Construction Management Services under RFP No.2019-08-011 and

WHEREAS, the Construction Manager submitted its original proposal and was selected under RFP No.2019-08011 and

WHEREAS, the County desires to engage the Construction Manager to render certain Construction Management services, as needed, and the Construction Manager is willing to provide such services and to enter into this Master Professional Construction Management Services Agreement; and

WHEREAS, this Master Agreement including all Exhibits and any subsequently awarded Task Orders for Professional Services form the Contract Documents and are all as fully a part of the Contract as if attached to this Agreement; and

WHEREAS, the Construction Manager was selected to provide and perform such Construction Management Services as provided for within this Agreement; and

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

**IT IS AGREED BETWEEN THE PARTIES:**

**1. Scope of Work.**

The Construction Manager hereby agrees to perform professional Construction Management services relevant to each project assigned in accordance with the terms and conditions set forth herein.

Individual project assignments will be made by Task Orders, which are individual amendments to this contract and outline the scope of work, period of performance and compensation. The County agrees to compensate the Construction Manager as set forth in Article 2 of this Agreement.

**Tasks required (Construction Management Services)** may include, but are not limited to:

**A. Administration – Evaluate Damaged Infrastructure and Assist County in Applying for and Obtaining Federal, State, County and Local Funding:**

The Construction Manager (CM) accepts a relationship of trust and confidence between itself and County. The Construction Manager shall agree to furnish his/her/its’ best skill and best judgment and to cooperate with County, FEMA, any and all regulatory agencies, and any design professionals associated with applying for and attaining federal, state, county and local emergency repair funds; and the oversight and management of construction work to be performed in furthering the interests of County and the construction projects to be performed. The Construction Manager shall furnish efficient Construction Management reviews, business administration, field supervision and shall use his/her/its’ best efforts to perform the work in the best and most expeditious, economical manner consistent with the interests of the County, and in strict conformity with FEMA funding requirements, State, Federal and local rules, laws and regulations.

**B. Preconstruction Phase:**

The Construction Manager shall provide an overall program schedule to include the design phase by Sierra County's professional design consultant, when applicable, and construction activities. The schedule shall provide adequate detail of the design phase and construction sequences for each project as required to achieve Sierra County’s desired construction completion for each component of the program.

When requested by Sierra County, the Construction Manager shall establish a Maximum Allowable Construction Cost (MACC) for each construction project.

1. Evaluate Project Options: The Construction Manager will evaluate various project options and provide cost analyses during the Pre-Construction Phase. The evaluation shall identify advantages and/or disadvantages of each option with regard to cost, schedule, logistics, and site development.

2. Develop a Project Budget: The Construction Manager, in consultation with Sierra County and the Project Team, will develop a detailed Project Budget that identifies all costs including construction costs, consulting fees, permit fees, testing and inspection fees, equipment, inflation and contingencies.

3. Develop a Project Delivery Strategy: The Construction Manager, in consultation with Sierra County and the Project Team, will analyze project requirements and develop a pre-construction and construction strategy that addresses requirements for funding compliance, function, cost, quality, time and logistics.

4. Develop a Project Master Schedule: The Construction Manager, in consultation with Sierra County and the Project Team, will develop a Project Master Schedule that establishes duration and responsibility for all major activities during all phases of the project.

5. Monitor the Project Master Schedule: The Construction Manager will monitor and report on progress during the pre-construction phase. The Construction Manager will update the Project Master Schedule monthly, will notify Sierra County and the Project Team of any delays or problems, and will recommend any corrective action necessary to meet the schedule.

6. Perform Value Construction Management Studies: The Construction Manager will perform a minimum of two (2) Value Construction Management Studies: one (1) at the beginning of schematic design to evaluate systems, and one (1) at the completion of the design phase to evaluate details and finishes. A report will be generated for each study including recommendations on the selection of systems, details and finishes. The final selections shall be made in consultation with Sierra County and the Project Team, prior to the preparation of final construction documents.

7. Perform Cost Estimating: The Construction Manager will prepare a minimum of three (3) detailed cost estimates for all construction site development work. One (1) estimate will be provided at the completion of schematic design, one (1) at the completion of the design phase, and one (1) at the completion of construction documents. The final estimate shall conform to the final bid package configuration.

8. Perform Constructability Reviews: The Construction Manager will review design documents, as they are developed in order to avoid potential problems and to minimize potential change orders. The Construction Manager will provide recommendations on contract provisions that establish contractor performance requirements to promote quality cost effectiveness and schedule compliance.

9. Provide Monthly Reports: The Construction Manager will prepare and distribute monthly reports to Sierra County and the Project Team on the project budget, the status of the project schedule, and on general project information.

10. Conduct Design Coordination Meetings: The Construction Manager will conduct design coordination meetings on a regular basis (minimum of two per month) with Sierra County, the Project Team, and other consultants to discuss and review all items pertinent to the design phase. The Construction Manager will prepare and distribute minutes of the meetings in a timely manner.

**C. Bidding Phase**

1. Develop Informal Bid Packages: The Construction Manager will develop informal bid packages to establish the categories of work into separate contracts that promote competition and provide well-defined and manageable divisions of work.

2. Develop Construction Schedule: The Construction Manager will develop a construction schedule that meets the needs of Sierra County for inclusion in the contract documents.

3. Develop Contractor and Supplier Interest: The Construction Manager will solicit quotes from each of the four contractors that have been pre-qualified by the County Sierra County to perform the required construction services for each project identified to insure a fair and competitive bidding environment. The Construction Manager will investigate each of the pre-qualified contractors to determine their ability to meet project requirements.

4. Establish Informal Bidding Procedures: The Construction Manager in conjunction with the Project Team will establish and implement procedures for the informal bidding process including the distribution of quote/bid documents, the issuance of addenda, the holding of pre-bid conferences, the receipt of quotes/bids, and the bidding schedule.

5. Distribute Quote/Bid Documents: The Construction Manager will distribute all informal bid documents to contractors and maintain accurate records of distribution activities.

6. Conduct Pre-Bid Conferences: The Construction Manager, in consultation with Sierra County and the Project Team, will schedule, organize, and conduct pre-bid conferences in a manner consistent with the bid schedule.

7. Receive and Evaluate Bids: The Construction Manager, in consultation with Sierra County and the Project Team, will receive and evaluate the bids and recommend the award of contracts.

8. Prepare Construction Contracts: The Construction Manager, in consultation with Sierra County and the Project Team, will prepare and coordinate the processing of all construction documents.

**D. Construction Phase Conduct Pre-Construction Conferences**

For each project to be managed under this RFP, the successful Construction Manager(s) shall function as an independent contractor. Construction services may include, but are not limited to the following:

1. Open Book Policy: The CM will maintain total financial and transaction transparency. All financial records shall be subject to random independent third party audits.

2. The Construction Manager will hold and administer all subcontracts and shall be responsible for all project administration including but not limited to; scheduling the work, verifying and approval of all required shop drawings and submittals, ordering and ensuring timely delivery of all required materials, enforcement of all OSHA safety regulations and approval of all material invoices and subcontractor pay requests. The Construction Manager will handle all bonding for sub-contracts and materials.

3. Labor and Materials Payment Bonds: The Construction Manager shall be required to provide a Labor and Material Payment Bond and a Performance Bond, both in the form of AIA Document A311, for each project when required by New Mexico State Statutes and/or Sierra County. Each bond shall be issued in an amount equal to 100% of the cost/expense associated with each construction project. The Bonding Company (Surety) must be listed on the Federal Register, licensed to do business in the State of New Mexico, and a minimum A.M. Best rating of A11.

4. Wage Rate Determinations: The Construction Manager shall be responsible for attaining and posting all applicable Wage Rate determinations for each of the construction projects to be managed under this solicitation.

5. General and Liability Insurance: The Construction Manager shall be required to obtain proof of insurance coverage from all contractors prior to the assignment and authorization of work to be performed by each contractor.

6. Builders Risk Insurance: The Construction Manager shall be required to obtain and provide proof of Builder's Risk Insurance from each contractor for each project assigned and authorized by the CM.

7. Construction Contingency: The Construction Manager shall report to Sierra County all construction contingency allocations and shall update and submit to the County a log of contingency allocations no less than once a month.

8. Pre-Construction Meetings: The Construction Manager, in consultation with the Project Team, will organize and conduct pre-construction meetings with contractors, consultants, and Sierra County. The meetings shall include a review of project management, project schedule, and project procedures.

9. Maintain On-Site Staff: The Construction Manager will provide and maintain a qualified, on-site field staff sufficient to manage the project, conform to the scope of services, and insure that the work is performed in compliance with the contract documents.

10. Process Shop Drawings: The Construction Manager, in consultation with the Project Team, will establish and implement procedures for processing and approving shop drawings, product data, samples, and other submittals from the contractors and will coordinate the processing and approval of all submittals with the Project Team. The Construction Manager will establish and maintain a submittal log to insure contractor compliance with the contract documents.

11. Project Coordination: The Construction Manager will be responsible for managing the site and coordinating all construction activities. The Construction Manager will provide administration, management, and related services necessary to coordinate the construction activities of the contractors with each other and with those of the Construction Manager, the Project Team, and Sierra County.

12. Develop Detailed Construction Schedule: Prior to commencing construction, the Construction Manager shall be required to submit an overall project schedule to Sierra County for its’ prior review and approval. The schedule shall include start and finish dates for procurement and construction activities and major milestones for each segment of the work and shall provide adequate detail to establish an acceptable and realistic construction sequence to achieve the required completion for each project. The schedule shall be updated and submitted to Sierra County, Sierra County, no less than once a month upon construction commencement.

13. Monitor Construction Progress: The Construction Manager will review contractor’s construction schedules, observe construction progress, and report deviations from the schedule that might delay project completion. The Construction Manager will consult with contractors to develop and implement corrective actions necessary to meet the project schedule.

14. Control Construction Quality: The Construction Manager will monitor and inspect all work in progress to insure the quality of the work and compliance with the contract documents. The Construction Manager will document and report all deficiencies and make recommendations for corrective actions.

15. Maintains Construction Records: The Construction Manager will maintain current and orderly records of all construction documents including contracts, drawings, specifications, submittals, samples, schedules, correspondence, meeting minutes, catalog data, directives, change orders, etc.

16. Process Applications for Payment: The Construction Manager, in accordance with the Project Team, will develop and implement a procedure for the review and processing of contractor payment applications. The Construction Manager will evaluate the contractor’s schedule of values to insure accurate and appropriate payments in contractors.

17. Maintain Construction Accounting System: The Construction Manager will establish and maintain an accurate and up-to-date construction cost accounting system.

18. Conduct Project Meetings: The Construction Manager, in consultation with Sierra County and the Project Team, will conduct bi-monthly meetings at the job site to discuss job progress, resolve problems, and make decisions. The Construction Manager will prepare and distribute accurate meeting minutes in a timely manner.

19. Conduct Construction Superintendent Meetings: The Construction Manager will conduct bi-monthly meetings at the job site with the construction superintendents to coordinate construction activities and discuss project progress. The Construction Manager will prepare and distribute accurate meeting minutes in a timely manner.

20. Prepare and Maintain Field Reports: The Construction Manager will prepare and maintain daily job site reports including weather conditions, number of workers, equipment in use, contractor activities, general activities, and special occurrences.

21. Process Change Orders: The Construction Manager, in consultation with Sierra County and the Project Team, will develop and implement a system for review and processing of change orders. The Construction Manager will estimate the cost of all change orders, insure the validity of change orders, and negotiate the cost of change orders with the contractors on behalf of Sierra County.

22. Coordinate Inspections and Testing: The Construction Manager will determine the requirements and make recommendations for inspections and testing. The Construction Manager, in consultation with Sierra County and the Project Team, will coordinate the selection of independent inspection and testing agencies, review inspection and testing reports, and make recommendations regarding the results of inspections and testing activities.

23. Recommend Construction Changes: The Construction Manager will evaluate work in progress and make recommendations for changes in the work on the basis of field conditions, improved quality, cost savings, or time savings.

24. Maintain Photographic Records: The Construction Manager will coordinate and maintain photographic and/or videotape records of construction activities and project progress on a regular basis.

25. Provide Monthly Reports: The Construction Manager will prepare and distribute a monthly report to Sierra County and the Project Team including information on schedule, budget, quality, safety, logistics, and general project information.

26. Monitor Contractors’ Safety Programs: The Construction Manager will review and monitor the safety program developed by each contractor, record any safety violations, and make recommendations for improving safety conditions.

**E. Close-Out Phase**

1. Develop Close-Out Program: The Construction Manager, in consultation with Sierra County and the Project Team, will develop a detailed program of close-out activities in compliance with the contract documents. The program will include a close-out schedule, inspections, testing, start-up procedures, warranty processing, and occupancy.

2. Coordinate Inspection and Testing: The Construction Manager will schedule and coordinate any and all required testing and inspections.

3. Process Warranties: The Construction Manager will collect, log, review, and submit to Owner all warranty documentation.

4. Coordinate Substantial and Final Inspections: The Construction Manager, in consultation with the Project Team, will schedule and coordinate substantial completion and final inspections. The Construction Manager will assist the Project Team in the preparation of a list of deficiencies (punch list) and will coordinate all correction action by contractors.

5. Coordinate Construction Close-Out: The Construction Manager will coordinate close-out activities including the completion of deficiencies, submittal of close-out documents, resolution of change orders, and recommendations for payment of retainage.

6. Submit Project Documentation: The Construction Manager will submit all project documentation including files, records, drawings, submittals, samples, and other information to Sierra County in an organized and usable form.

7. Coordinate Warranty Work: The Construction Manager will coordinate the warranty work by contractors to insure that their obligations are fulfilled in a timely manner.

8. Certificates: The Construction Manager, upon completion of the project, will be responsible for certifying that, to the best of his professional knowledge, the building conforms to the approved plans, specifications, and shop drawings.

**2. Compensation.**

A. The County agrees to pay the Construction Manager in full payment for the services and work contemplated under the terms of this Agreement and satisfactorily performed under the individual Task Orders to be negotiated based on FEMA allowable reimbursement percentages. In no event will the Construction Manager be paid any amount in excess of the specified total amount payable in the individual task order without the task order being amended in writing.

B. New Mexico Gross Receipts Tax will be billed as a separate added amount at the time of each pay request at the percentage applicable at the time of billing.

C. Reimbursable services of the Construction Manager will include the following items when approved in writing by the Owner: Cost of reproduction of drawings and specifications required for bidding. Payment of reimbursable expenses to the Construction manager will be paid by the Owner at the direct cost to the Construction manager. All requests for reimbursable expenses will be accompanied by copies of original invoices.

D. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Article 1, Scope of Work.

E. Construction Manager must submit a detailed statement accounting for all services performed, as specified in the individual task order. If the County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Construction Manager that payment is requested, it shall provide the Construction Manager a letter of exception explaining the defect or objection to the services, and outlining steps the Construction Manager may take to provide remedial action. The County will continue to pay Construction Manager for any undisputed amounts pursuant to Article 2(A). Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Construction Manager within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

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

**3. Term.**

This Agreement is for one (1) year from the date of approval by the Sierra County Board of County Commissioners. This Contract will automatically renew on an annual basis, for up to three (3) additional one (1) year terms unless terminated pursuant to Article 4 (Termination for Convenience), Article 5 (Termination for Cause), or Article 6 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

**4. Termination For Convenience.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County’s sole liability upon such termination shall be to pay for acceptable work ordered and performed prior to the Construction Manager’s receipt of the notice of termination, if the County is the terminating party, or the Construction Manager’s sending of the notice of termination, if the Construction Manager is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party’s liability for pre-termination defaults under or breaches of this Agreement. The Construction Manager shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Construction Manager if the Construction Manager becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Construction Manager or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein.

THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY’S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONSTRUCTION MANAGER'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Construction Manager of notice of termination of this Agreement, the Construction Manager shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Construction Manager with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

**5. Termination For Cause.**

A. County may by written notice terminate this Agreement in whole or in part for Construction Manager’s default if the Construction Manager fails to comply with the provisions of this Agreement or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In such event, County may otherwise secure the materials, supplies or services ordered, and Construction Manager shall be liable for damages suffered by County thereby, including incidental and consequential damages. If after notice of termination, County determines Construction Manager was not in default, or if Construction Manager’s default is due to failure of County, termination shall be deemed for the convenience of County. The rights and remedies of County provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement as used in this paragraph, the word “Construction Manager” includes Construction Manager’s sub-suppliers at any tier.

B. In the event a termination for cause notice is issued by the County, the Construction Manager shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Construction Manager with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

**6. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of each task order assigned under this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice being given by the County to the Construction Manager. The County's decision as to whether sufficient appropriations are available shall be accepted by the Construction Manager and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Construction Manager shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**7. Status of Construction Manager.**

The Construction Manager and its agents and employees are independent Construction Managers performing professional services for the County and are not employees of the County of Sierra. The Construction Manager and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of county vehicles, or any other benefits afforded to employees of the County of Sierra as a result of this Agreement. The Construction Manager acknowledges that all sums received hereunder are reportable by the Construction Manager for tax purposes, including without limitation, self-employment and business income tax. The Construction Manager agrees not to purport to bind the County of Sierra unless the Construction Manager has express written authority to do so, and then only within the strict limits of that authority.

**8. Assignment.**

The Construction Manager shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County.

**9. Subcontracting.**

The Construction Manager shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. Subcontractors listed in an approved task order constitute approval of the County. No such subcontract shall relieve the Construction Manager from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the Construction Manager is solely responsible for fulfillment of this Agreement.

**10. Release.**

Final payment of the amounts due under each task order issued under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Sierra from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**11. Confidentiality.**

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

**12. Product of Service -- Copyright.**

All materials developed or acquired by the Construction Manager under this Agreement shall become the property of the County of Sierra and shall be delivered to the County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Construction Manager under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Construction Manager.

**13. Conflict of Interest; Governmental Conduct Act.**

A. The Construction Manager represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Construction Manager further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Construction Manager specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Construction Manager does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by the County and participating directly or indirectly in the County’s contracting process;

2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because (i) the Construction Manager is not a public officer or employee of the County; (ii) the Construction Manager is not a member of the family of a public officer or employee of the County; (iii) the Construction Manager is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Construction Manager is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Construction Manager is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Construction Manager is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Construction Manager has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Construction Manager has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.

C. Construction Manager’s representations and warranties in Paragraphs A and B of this Article 13 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Construction Manager shall provide immediate written notice to the County if, at any time during the term of this Agreement, Construction Manager learns that Construction Manager’s representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Construction Manager’s representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 13(B).

**14. Amendment.**

This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories. Executed task orders are amendments to this agreement.

**15. Merger.**

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

**16. Penalties for Violation of Law.**

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

**17. Equal Opportunity Compliance.**

The Construction Manager agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, the Construction Manager assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Construction Manager is found not to be in compliance with these requirements during the life of this Agreement, Construction Manager agrees to take appropriate steps to correct these deficiencies.

**18. Applicable Law.**

In any action, suit or legal dispute arising from this Agreement, the Construction Manager agrees that the laws of the State of New Mexico shall govern and that venue will lie in the Seventh Judicial District Court in Sierra County. By execution of this Agreement, Construction Manager acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**19. Workers Compensation.**

The Construction Manager agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Construction Manager fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the County.

**20. Records and Financial Audit.**

The Construction Manager shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement’s term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the County’s auditor, the New Mexico Department of Finance and Administration and the New Mexico State Auditor. The County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments

**21. Disclaimer and Hold Harmless.**

Sierra County shall not be liable to the Construction Manager, or the Construction Manager’s successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Construction Manager's person or property, occurring in connection with Construction Manager's performance of Construction Manager's duties according to this Agreement. Construction Manager shall hold Sierra County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Sierra County in connection with the performance by Construction Manager of Construction Manager's duties according to this Agreement.

**22. Indemnification.**

The Construction Manager shall defend, indemnify and hold harmless the County of Sierra from all actions, proceeding, claims, demands, costs, damages, attorneys’ fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Construction Manager, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Construction Manager resulting in injury or damage to persons or property during the time when the Construction Manager or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Construction Manager or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Construction Manager, the Construction Manager shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Sierra and the New Mexico Association of Counties by certified mail.

**23. Invalid Term or Condition.**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

**24. Enforcement of Agreement.**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless expressed in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**25. Authority.**

If Construction Manager is other than a natural person, the individual(s) signing this Agreement on behalf of Construction Manager represents and warrants that he or she has the power and authority to bind Construction Manager, and that no further action, resolution, or approval from Construction Manager is necessary to enter into a binding contract.

**26. Lobbying.**

No federal appropriated funds can be paid or will be paid, by or on behalf of the Construction Manager, or any person for influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, or the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any County, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of this federal contract, grant, loan, or cooperative agreement, the CONSTRUCTION MANAGER shall complete and submit Standard Form LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

**27. Approval of Construction Manager Personnel.**

Personnel proposed in the Construction Manager's written proposal to the County are considered material to any work performed under this Agreement. No changes of personnel will be made by the Construction Manager without prior written consent of the procuring agency of the County. Replacement of any Construction Manager personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Construction Manager will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Construction Manager's personnel at any time.

**28. Survival.**

The agreement Articles titled “Patent, Copyright, Trademark, and Trade Secret Indemnification” and “Indemnification” shall survive the expiration of this agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this agreement shall survive this agreement.

**29. Succession.**

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

**30. Force Majeure.**

A party shall be excused from performance under this agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

**31. Mediation.**

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

**32. Notice to Proceed.**

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting. The Construction Manager is not to proceed with its obligations under the Agreement until the Construction Manager has received a fully signed copy of the Agreement. Further, each individual task order must be fully executed prior to proceeding with any work.

**33. Attorney’s Fees.**

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

**34. Cooperation.**

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

**35. Incorporation and Order of Precedence.**

Request for Proposals #RFP 2015-11001 and the Construction Manager's proposal are incorporated by reference into this agreement and are made a part of this agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

1. Any contract amendment(s), in reverse chronological order; then

2. this contract itself; then

3. the Request for Proposals; then

4. the executed task orders with the scope of work, timeframe for completion, and compensation, in reverse chronological order; then

5. the Construction Manager’s proposal.

**36. Patent, Copyright, Trademark and Trade Secret Indemnification.**

A. The Construction Manager shall defend, at its own expense, the County of Sierra against any claim that any product or service provided under this agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Sierra based upon the Construction Manager's trade secret infringement relating to any product or service provided under this agreement, the Construction Manager agrees to reimburse the County of Sierra for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Sierra shall:

i. give the Construction Manager prompt written notice of any claim;

ii. allow the Construction Manager to control the defense or settlement of the claim; and

iii. cooperate with the Construction Manager in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Construction Manager's opinion is likely to become the subject of a claim of infringement, the Construction Manager shall at its option and expense:

i. provide a procuring agency of the County the right to continue using the product or service;

ii. replace or modify the product or service so that it becomes non-infringing; or

iii. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Construction Manager. The Construction Manager's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

**37. Professional Liability Insurance.**

Construction Manager agrees to maintain in full force throughout the duration of the Agreement a liability insurance policy with a minimum coverage of : Comprehensive General Liability - $1,000,000 per occurrence, $2,000,000 General Aggregate; Professional liability- $1,000,000 per occurrence, $2,000,000 General Aggregate. Occurrence type, if available; if not "Claims Made" type with a minimum of a six (6) year tail. The County will be named as an additional insured on said policy, and will be provided an updated certificate of insurance on an annual basis.

**38. Compliance With Laws**

In providing the scope of services outlined herein, the Construction Manager and the County shall comply with all applicable laws, ordinances, and codes of the Federal, State, and local governments.

**39. Construction and Severability**

If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.

**40. Federal Government Subcontract Provisions**

The clauses contained in the referenced paragraphs of the Federal Acquisition Regulations (FAR) are hereby incorporated by reference. In the event of any conflict between the terms and conditions of these Federal Acquisition Regulations and any other provisions of this Agreement, the terms and conditions of these Federal Acquisition Regulations shall prevail. For the purposes of Sierra County, in all of the following clauses, the terms "contract" shall mean the resultant Agreement, and the term "contractor" shall mean "seller." The term "Government" shall mean "Sierra County" and the terms "contracting officer" shall mean the "Chief Procurement Officer," except in those clauses with an "\*" in the third column (Contract Grant). In the clauses marked with an "\*", "Government" shall mean "United States Government."

**A. 52.222-6 Davis Bacon Act.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(ii) The classification is utilized in the area by the construction industry.

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

**B. 52-203-7 Kickbacks, prohibits any person from --**

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

**C. 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--OVERTIME COMPENSATION (MAR 1986)**

(a) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics (see Federal Acquisition Regulation (FAR) 22.300) shall require or permit any such laborers or mechanics in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer shall upon his or her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payrolls and basic records. (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of contract work and shall preserve them for a period of 3 years from the completion of the contract for all laborers and mechanics working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 CFR 5.5 (a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)

(1) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (e) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause.

**D. As prescribed by 44 CFR Ch. 1 ¶ 13.37 (i)** (10)– Access by grantee and sub-grantee and the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions.

**E. As prescribed by 44 CFR Ch. 1 ¶ 13.34 entitled Copyrights.** The Federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

1. The copyright in any work developed under a grant, sub-grant or contract under a grant or sub-grant; and
2. Any rights of copyright to which a grantee, sub-grantee or a contractor purchases ownership with grant support.

**41. Entire Agreement**

This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SIERRA**

**42. Notices.**

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

To: County of Sierra

Jocelyn Holguin, Chief Procurement Officer

855 Van Patten

Truth or Consequences, NM 87901

To the CONSTRUCTION MANAGER:

Printed Name:

Address:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NAME AND TITLE OF CONSTRUCTION MANAGER

**IN WITNESS WHEREOF, the parties have executed this Agreement as of the date of signature by the County Chief Procurement Officer below:**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Bruce Swingle, County Manager

**BOARD OF COUNTY COMMISSIONERS**

**APPROVED, ADOPTED AND PASSED** on this \_\_ day of \_\_, 2019.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

James E. Paxon, Chair

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Travis Day, Vice- Chair

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Frances Luna, Commissioner

Attest:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Shelly Trujillo

Sierra County Clerk

**Sierra County Chief Procurement Officer:**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Jocelyn Holguin, CPO

Sierra County

Attachments:

1. Task Order format

# Attachment 1

# SAMPLE TASK ORDER \_\_\_\_\_\_\_\_\_\_\_\_\_\_

**FROM**

**COUNTY OF SIERRA, NEW MEXICO**

**TO**

**CONSTRUCTION MANAGER**

1. Task Order No.

2. Title:

3. Location:

4. Scope of Services Required:

5. County Contacts:

CONSTRUCTION MANAGER Contact:

Others:

6. Estimated Performance Time:

7. Estimated Cost:

8. Attachments:

9. The Parties hereto executed the original Agreement on

County of Sierra CONSTRUCTION MANAGER

Date: Date:

10. Task Order Modification No.

Approved: Date:

# APPENDIX F

# FEDERAL FLOW-DOWN CERTIFICATION REQUIREMENTS

**1. 52.222-26 Equal Employment Opportunity. Representations required to implement provisions of Executive Order 11246 —**

(1) Previous contracts and compliance. The offeror represents that—

(i) It \_\_\_\_\_\_ has, \_\_\_\_\_\_ has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It \_\_\_\_\_\_ has, \_\_\_\_\_\_ has not filed all required compliance reports.

(2) Affirmative Action Compliance. The offeror represents that—

(i) It \_\_\_\_\_\_ has developed and has on file, \_\_\_\_\_\_ has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It \_\_\_\_\_\_ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor. (CHECK THE APPLICABLE BOX)

2. **52.225-1 Buy American Act Certificate.**

(1) The offeror certifies that each end product, except those listed in paragraph (2) of this

provision, is a domestic end product and that for other than COTS items, the offeror has

considered components of unknown origin to have been mined, produced, or manufactured

outside the United States. The offeror shall list as foreign end products those end products

manufactured in the United States that do not qualify as domestic end products, i.e., an end

product that is not a COTS item and does not meet the component test in paragraph (2) of the

definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS)

item,” “component,” “domestic end product,” “end product,” “foreign end product,” and “United

States” are defined in the clause of this solicitation entitled “Buy American Act — Supplies.”

(2) Foreign End Products:

Line Item No. Country of Origin

(List as Necessary)

3. **2.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (APR 2010)**

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are \_\_\_\_\_\_ are not \_\_\_\_\_\_ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have \_\_\_\_\_\_ have not \_\_\_\_\_\_, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks “have”, the offeror shall also see 52.209-7, if included in this solicitation); and

(C) Are \_\_\_\_\_\_ are not \_\_\_\_\_\_ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

(D) Have \_\_\_\_\_\_ have not \_\_\_\_\_\_, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has \_\_\_\_\_\_ has not \_\_\_\_\_\_, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal Agency.

(2) “Principal,” for the purposes of this certification, means an officer; director; owner; partner; or a person having primary management or supervisory responsibilities within a business entity

(e.g., general manager; plant manager; head of a division or business segment; and similar

positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under section 1001, title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of

records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealing.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default. (CHECK THE APPLICABLE BOX)

**4. 52.223-2CLEAN AIR AND WATER CERTIFICATION (APR 1984)**

The Offeror certifies that--

(a) Any facility to be used in the performance of this proposed contract is [ ], is not [ ] listed on the Environmental Protection Agency (EPA) List of Violating Facilities;

(b) The Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the EPA, indicating that any facility that the Offeror proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) The Offeror will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract. (CHECK THE APPLICABLE BOX)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_

Authorized Signature and Date (**Must** be **signed** by the person identified in **line item #2 of APPENDIX A PAGE 46**)

**END**